



**Nottinghamshire  
County Council**

# **THE CONSTITUTION**

**OF**

**NOTTINGHAMSHIRE COUNTY COUNCIL**



## **PART ONE**

### **INTRODUCTION**

1. This Constitution sets out how Nottinghamshire County Council is governed including how decisions are made.

### **THE COUNCIL'S DECISION-MAKING STRUCTURE**

2. The Council and its committees and officers will make decisions in accordance with the Authority's governing principles which are as follows:
  - a. Creating and implementing a strategic vision for Nottinghamshire
  - b. Focusing on outcomes for the people of Nottinghamshire
  - c. Councillors and staff working together to achieve the Council's common purpose
  - d. Upholding high standards of conduct and behaviour
  - e. Taking informed and transparent decisions
  - f. Engaging with local people and other stakeholders to ensure robust public accountability and putting the customer at the heart of everything we do
  - g. Ensuring the effectiveness of Councillors and staff through appropriate support.
3. With the exception of day-to-day operational matters, all decisions of the Council are taken either at Full Council involving all 67 County Councillors, or by committees. Committees are comprised of councillors, to reflect the political balance of the Council.
4. The Council has appointed the following committees:

Administration Committee	Culture Committee
Adult Social Care and Health Committee	Early Years and Youth Services Sub-Committee
Appeals Sub-Committee	Economic Development Committee
Audit Committee	Environment and Sustainability Committee
Children and Young People's Committee	Finance and Property Committee
Community Safety Committee	Grant Aid Sub-Committee
Corporate Parenting Sub-Committee	Health Scrutiny Committee

Joint Committee on Appointments to the Police Authority (until 15 Nov 2012)	Personnel Committee
Joint Committee on Strategic Planning & Transport	Planning & Licensing Committee
Joint City/Council Health Scrutiny Committee	Policy Committee
Local Joint Resolutions Committee	Rights of Way Committee
Nottinghamshire Pension Fund Committee	Senior Staffing Sub-Committee
Pensions Investment Sub-Committee	Shadow Health and Wellbeing Board
Pensions Sub-Committee	Standards Committee (until 1 July 2012)
	Transport and Highways Committee

5. Part Four of this Constitution sets out Council, committee and employee responsibilities in detail.
6. All Council and committee decisions are taken following consideration of a report which gives background information, any alternative options available and other relevant considerations such as the potential impact on equalities, crime and disorder and human rights. The procedure for committee meetings where decisions are taken is set out in Part Five.

## **PUBLIC INVOLVEMENT**

7. The Council encourages the public of Nottinghamshire to get involved in local democracy and decision-making.
8. The public elects County Councillors every four years. They also have the right to submit petitions. More information on petitions is available in Part Five of this Constitution.
9. Access to the right information is essential if the public is to be properly involved; Part Three of this Constitution explains how information is made available. In particular, the public has the right to attend all meetings of Council and its committees, and to see reports and background papers. The Council's diary of meetings and reports are available on the Council's website: [www.nottinghamshire.gov.uk](http://www.nottinghamshire.gov.uk)
10. The Council operates complaints procedures which are overseen by the Local Government Ombudsman.

## **COUNCILLORS**

11. Councillors collectively are the ultimate policy makers. The Council's Policy Framework is set out in Part Two of this Constitution. Their role is to act in the interests of the whole county of Nottinghamshire, and also to represent the communities which elected them, bringing their views to the decision-making process. In addition they deal with individual casework and act on behalf of constituents in resolving particular problems.
12. Nottinghamshire County Councillors have adopted a Code of Conduct to ensure the highest standards are maintained. This is set out in Part Six of this Constitution.
13. The Council elects a Chairman and Vice-Chairman of the Council annually. They will carry out the formal and ceremonial duties of the Council, chairing meetings of Full Council and representing the Authority at civic functions.
14. The Chairman of Policy Committee will be the Council Leader and the Vice-Chairman will be the Deputy Leader.

## **STAFFING**

15. The Council employs staff to carry out its functions and decides every year how many are required. The Staffing Procedure Rules [see Part Six of this Constitution] set out how decisions relating to staffing issues will be taken.
16. The Council has also adopted a Code of Conduct to ensure the highest standards are maintained. This is set out in Part Six of this Constitution.
17. There is a legal requirement to allocate some specific responsibilities to officers and the Council has designated the following posts:

Chief Executive	Head of Paid Service & Proper Officer
Corporate Director Policy, Planning and Corporate Services	Monitoring Officer
Service Director Financial Services	Chief Finance Officer (also known as Section 151 Officer)

18. These post holders' specific responsibilities are set out in Part Four of this Constitution.

## **FINANCES**

19. To ensure transparency and propriety in how the Council spends taxpayers' money, the Council has adopted Financial Regulations which are set out in Part Six of this Constitution. The Council sets its budget annually; the framework for the process is set out in Part Six of this Constitution.
20. It has also adopted a Scheme of Councillor Allowances and Travel and Accommodation Policy regarding expenses, both of which are set out in Part Six.

21. The Council publishes its annual statement of accounts and all individual items of expenditure over £500 on its website, and approves and publishes senior officer pay.

### **PARTNERSHIP WORKING**

22. The Council is committed to working with its partners such as the City Council, district and borough councils, parish councils, the Health Service, the voluntary sector and other public bodies, to deliver services in the most effective way. The Council has adopted a protocol for councillors and officers involved with outside bodies. This is set out in Part Six of this Constitution.

23. The Council may also contract-out functions to other bodies or organisations where considered appropriate.

**PART TWO**

**POLICY FRAMEWORK**

## **RESPONSIBILITY FOR POLICY**

1. Councillors are collectively the ultimate policy makers for the County Council. The Council's policies are set by Councillors as set out in the responsibility for functions of the Full Council and the Policy Committee.

## **POLICY**

2. The Council's policies establish the principles that the organisation will follow in
  - a. according with the Council's governing principles
  - b. implementing the strategic vision for Nottinghamshire
  - c. all decision making
  - d. developing, improving, commissioning and providing services
  - e. representing the views of the Council and Nottinghamshire.
3. The council's ambitions, values and priorities will be set out in a strategic vision for Nottinghamshire.
4. The strategic vision for Nottinghamshire will be delivered through a Plan. The council will report progress and achievements against the Plan.

## **FRAMEWORK**

5. The Council's policies and strategies will be informed by the strategic vision for Nottinghamshire, the ambitions, values and priorities set out in the vision and the Plan to deliver it.
6. The Council's policies and strategies will be supported by a plan for implementation of the policy or delivery of the strategy. The council will report progress and achievements against these Plans.
7. The Council's policies and strategies will be accessed from a single policy library and will be subject to review.
8. The development and review of policy will be led by Councillors. The Council will usually set one policy with service specific considerations if appropriate.
9. The Council may develop procedures and issue guidance in accordance with its policies.
10. Within the responsibility for functions of the Full Council and the Policy Committee Policy is a collective term which includes the Council's policies, strategies and statutory plans.



**PART THREE**

**TRANSPARENCY**

**ACCESS TO INFORMATION AND MEETINGS**

## **INTRODUCTION**

1. Nottinghamshire County Council is committed to the principles of openness and accountability and encourages the public to attend meetings and take an active interest in how the Council works.
2. The Council is committed to making available minutes, agendas and reports for public inspection.
3. Councillors have additional rights to access information which they need to assist them in fulfilling their responsibilities.
4. These rules apply to all meetings of the Council, committees and sub-committees and set out the rights of individuals to attend meetings and access information.

## **REPORTS**

5. Committee reports will normally be available to the public. However if exempt information is required to enable a proper decision to be taken, it will be placed in an appendix to the report. Categories of exempt information are set out below.
6. Reports which include exempt information will set out the reason for this exemption and in the body of the report explain why it is not in the public interest to make that information available at that time.
7. On rare occasions it may be necessary for a whole report to be exempt and not publicly available due to the nature of the information it contains.
8. All reports will include a list of background papers (if any) relating to the subject matter of the report which:-
  - a. have been relied on in preparing the report (e.g. a consultant's report);
  - b. disclose any facts or matters on which the report or an important part of the report is based;
9. Reports may also include a list of any previous reports on the same issue and other published information that is relevant
10. Anyone requiring a copy of background papers for any report should contact Democratic Services. The list of background papers should indicate whether any papers include exempt or confidential information which cannot be disclosed.

## **MEETINGS**

11. The Council will give at least five clear working days' notice of all meetings. Details of all meetings will be posted on the notice board at County Hall and the Council's website: [www.nottinghamshire.gov.uk](http://www.nottinghamshire.gov.uk).
12. Copies of the agenda and reports for meetings will be made available to the public for inspection at County Hall and will also be available on the Council's website. These documents will be made available:

- a. five clear working days before the meeting; or
  - b. in the case of an urgent item or additional information, as soon as possible.
13. Members of the public may attend all meetings of the Council and its committees and will only be excluded when exempt information is discussed.

**PUBLIC ACCESS TO DOCUMENTS AFTER THE MEETING**

14. Copies of meeting documents will be publicly available for 6 years following the date of the meeting unless they relate to exempt or confidential information.
15. The Council will supply copies of the publicly available documents to any person who requests them but may make a charge for costs incurred such as postage and photocopying.

**CIRCUMSTANCES WHERE THE PUBLIC ARE EXCLUDED FROM MEETINGS**

16. Members of the public may be excluded from a meeting where exempt information as set out below is being discussed.
17. Members of the public must be excluded from a meeting where confidential information is being discussed. Confidential information for these purposes is:-
- a. information given to the Council by a Government Department on terms which do not permit its public disclosure; or
  - b. information which cannot be publicly disclosed by virtue of any enactment or by Court Order.

**CATEGORIES OF EXEMPT INFORMATION**

1. Information relating to any individual, such as names, addresses, telephone numbers, or job titles
2. Information which is likely to reveal the identity of an individual, such as names, addresses, telephone numbers, or job titles
3. Information relating to the financial or business affairs of individuals or organisations (including the Council). This could include contemplated as well as past or current activities
4. Information relating to any consultations or negotiations on employee relations
5. Information to which legal professional privilege applies
6. Information which discloses the Council's intention to issue a formal legal notice or make a formal legal order or direction
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

18. General Conditions for all categories:

- a. Information **is not** exempt information if it relates to proposed development for which the Council as local planning authority may grant itself planning permission.
- b. Information **is not** exempt if it is required by law to be publicly available.
- c. Information can be exempt if it falls within one of the categories below and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**ADDITIONAL RIGHTS TO INFORMATION**

19. The provisions in this section of the Constitution do not affect any specific rights relating to the access of information which are contained elsewhere in this Constitution or the law; for example the Freedom of Information Act and the Data Protection Act
20. Previously exempt information may subsequently be made available if the reason for exemption no longer applies.

**COUNCILLORS' ADDITIONAL RIGHTS**

**ATTENDANCE AT MEETINGS**

21. The Procedure Rules [add link here] for committee and sub-committee meetings set out the provisions that apply to Councillors who wish to attend meetings of which they are not a member.

**ACCESS TO INFORMATION**

22. Councillors may request officers to provide them with any information they need to assist them in fulfilling their responsibilities as elected representatives. However, Councillors may not be able to access information which in the opinion of the Monitoring Officer is in draft form, contains confidential or exempt information as defined in this section, or where disclosure would breach the provisions of the Data Protection Act.

**PART FOUR**  
**ACCOUNTABILITY**  
**RESPONSIBILITY FOR FUNCTIONS**

## **INTRODUCTION**

1. This part of the Constitution sets out the responsibilities of Full Council, its committees and officers.
2. In the absence of the relevant committee chairman, the vice-chairman will substitute.
3. All Councillors are encouraged to undertake regular training and for the following committees there is a specific training requirement:-
  - a. Appeals Committee
  - b. Planning and Licensing Committee
  - c. Rights of Way Committee
  - d. Senior Staffing Sub-Committee
4. The Council has established scrutiny committees to deal with health matters; other statutory scrutiny functions will be carried out by the Policy Committee.

## **PART A – TERMS OF REFERENCE**

### **THE FULL COUNCIL**

1. The functions listed below are reserved to the Full Council and can only be discharged by the Full Council:
  - a. Determining all policies and plans statutorily reserved to the Full Council including:
    - Annual library plan/strategy
    - Crime and disorder reduction strategy (Community Safety Agreement)
    - Local transport plan
    - Plans and alterations which together comprise the Development Plan
    - Sustainable community strategy
    - Youth justice plan (Youth Crime Strategy)
  - b. The approval or adoption of a plan or strategy for the control of the Council's borrowing, investments or capital expenditure, or for determining the Council's minimum revenue provision; the Budget
  - c. The approval of any of the above documents in the event they, or part of them, need to be submitted to the Secretary of State or any Government Minister for final approval, including where they are to be submitted in draft form
  - d. The approval of changes to any plan or strategy referred to above, unless: -
    - that change is required by the Secretary of State or any Government Minister where the plan or strategy has been submitted to them for approval, or
    - Full Council specifically delegated authority in relation to these functions when it approved or adopted the plan or strategy
  - e. Adopting and changing the Constitution
  - f. Establishing committees and deciding their terms of reference and size
  - g. Appointing and removing chairmen and vice-chairmen
  - h. Authorising appointments to any joint committees
  - i. Authorising appointments to the Nottinghamshire and City of Nottingham Fire Authority
  - j. Approving a Members' Allowances Scheme including any provision for Chairman's and Vice Chairman's expenses
  - k. Approving the annual Senior Officer Pay Policy Statement

- l. Confirming the appointment of, and dismissing, the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer
- m. Making any request to the Local Government Boundary Commission for England for single-member electoral areas
- n. The passing of a resolution to change the County's electoral scheme
- o. Making an order to give effect to recommendations made in a community governance review
- p. In relation to any overview and scrutiny committees, permitting a co-opted member to vote at meetings of that committee
- q. Changing the name of the County
- r. Conferring the title of honorary alderman
- s. Making, amending, revoking, re-enacting and adopting bye-laws and promoting and opposing the making of local legislation and personal bills in Parliament
- t. Any other function which, by law, must be reserved to the Full Council

## **POLICY COMMITTEE – TERMS OF REFERENCE**

2. The powers and functions set out below are delegated by the Full Council:
  - a. All decisions within the control of the Council including but not limited to those listed in the Table below
  - b. Policy development and approval except on matters reserved for the Full Council
  - c. Review of performance on at least a quarterly basis
  - d. Review of day to day operational decisions taken by Officers
  - e. Approval of consultation responses relating to the Committee's areas of responsibility
  - f. Approval of relevant staffing structures as required
3. If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy Committee.
4. As part of the detailed work programme the Committee will receive reports on the exercise of powers delegated to Officers.



5. The Committee will be responsible for its own projects but, where it considers it appropriate, projects will be co-ordinated by a cross-committee project steering group that will report back to the relevant Committee.

Table
Responsibility for ensuring that committees operate under the policy direction of the County Council and for determining policies not reserved to the Full Council
Responsibility for the discharge of all functions and exercise of all powers of the County Council not expressly reserved to the Full Council or to any other part of the County Council by statute or by this Constitution
Responsibility for monitoring and reviewing the overall performance of the Council
Responding to any consultations within the remit of more than one committee as and when required
Responsibility for those functions relating to elections and local democracy which are not reserved to the Full Council
Responsibility for the Council's internal and external communications policy and its implementation
Responsibility for Information Governance including but not limited to Data Protection and Freedom of Information
Responsibility for monitoring and reviewing the Council's customer strategy and any matters dealt with by the Business Services Centre
Responsibility for ensuring the Council meets its equalities duties
Responsibility for ensuring high standards of conduct by the County Council, its Councillors, co-opted members and Officers
Responsibility for the implementation of and revision to all codes of conduct and practice of the County Council
Responsibility for all remaining statutory overview and scrutiny powers except those delegated to a health scrutiny committee
Responsibility for the Council's risk management strategy
Responsibility for reviewing annual reports and inspection reports not within the remit of another committee
Responsibility for approving the recruitment process for any independent members of committees and panels required by statute
Responsibility for the Council's Improvement Programme
Responsibility for Legal and Democratic Services

## **GRANT AID SUB-COMMITTEE – TERMS OF REFERENCE**

6. This is a sub-committee of the Policy Committee.
7. The exercise of the powers and functions set out below are delegated in relation to grant aid and voluntary sector liaison:
  - a. All decisions within the control of the Council including but not limited to those listed in the Table below
  - b. Policy development in relation to grant aid and voluntary sector liaison, subject to approval by the Policy Committee or the Full Council

- c. Review of performance on at least a quarterly basis
  - d. Review of day to day operational decisions taken by Officers
  - e. Approval of consultation responses
8. As part of the detailed work programme the Sub-Committee will receive reports on the exercise of powers delegated to Officers.
  9. The Sub-Committee will be responsible for its own projects but, where it considers it appropriate, projects will be considered by a cross-committee project steering group that will report back to the Policy Committee.

Table
Responsibility for Grant Aid as defined in the grant aid strategy
Responsibility for strategic engagement with the voluntary sector

#### **ADULT SOCIAL CARE AND HEALTH COMMITTEE – TERMS OF REFERENCE**

10. The exercise of the powers and functions set out below are delegated by the Full Council in relation to adult social care and health:
  - a. All decisions within the control of the Council including but not limited to those listed in the Table below
  - b. Policy development in relation to adult social care and health, subject to approval by the Policy Committee or the Full Council
  - c. Review of performance in relation to the services provided on at least a quarterly basis
  - d. Review of day to day operational decisions taken by Officers
  - e. Approval of relevant consultation responses
  - f. Approval of relevant staffing structures as required
11. If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy Committee.
12. As part of the detailed work programme the Committee will receive reports on the exercise of powers delegated to Officers.
13. The Committee will be responsible for its own projects but, where it considers it appropriate, projects will be considered by a cross-committee project steering group that will report back to the most appropriate Committee.

Table
Responsibility for adult social care matters (eg. people aged 18 or over with eligible social care needs and their carers)
Responsibility for promoting choice and independence in the provision of all adult social care
Responsibility for promoting good health, health improvement and individual and community wellbeing and the reduction of health inequalities

## CHILDREN AND YOUNG PEOPLE’S COMMITTEE – TERMS OF REFERENCE

14. The exercise of the powers and functions set out below are delegated by the Full Council in relation to children and young people to the Committee and its Sub-Committees.
- a. All decisions within the control of the Council including but not limited to those listed in the Table below
  - b. Policy development in relation to children and young people, subject to approval by the Policy Committee or the Full Council
  - c. Review of performance in relation to the services provided on at least a quarterly basis
  - d. Review of day to day operational decisions taken by Officers
  - e. Approval of consultation responses
  - f. Approval of departmental staffing structures as required
15. If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy Committee.
16. As part of the detailed work programme the Committee will receive reports on the exercise of powers delegated to Officers.
17. The Committee will be responsible for its own projects but, where it considers it appropriate, projects will be considered by a cross-committee project steering group that will report back to the most appropriate Committee.

Table
Responsibility for services to children and young people in relation to their care, wellbeing, education or health
Responsibility for the functions and powers conferred on or exercisable by the County Council as Local Authority in relation to education
Responsibility for working with all schools including academies in relation to raising standards of attainment and developing opportunities
Responsibility for environmental education
Responsibility for arts education

18. The Chairman of the Children and Young People's Committee will be designated the lead Councillor for Children and Young People's Services in accordance with Section 19 of the Children Act 2004.

### **CORPORATE PARENTING SUB-COMMITTEE – TERMS OF REFERENCE**

19. This is a sub-committee of the Children and Young People's Committee

20. The Sub-Committee is responsible for the following:

Table
Responsibility for overseeing the County Council's responsibilities as the corporate parent of children and young people in care
Responsibility for championing the interests of children and young people in care

### **EARLY YEARS AND YOUNG PEOPLE'S SUB-COMMITTEE – TERMS OF REFERENCE**

21. This is a sub-committee of the Children and Young People's Committee

22. The Sub-Committee is responsible for the following:

Table
Responsibility for the Young People's Service
Responsibility for Early Years and the Early Years Intervention Service including Children's Centres
Responsibility for Young People's Sports and Arts Services
Responsibility for the Targeted Support and Youth Justice Service

### **COMMUNITY SAFETY COMMITTEE – TERMS OF REFERENCE**

23. The exercise of the powers and functions set out below are delegated by the Full Council in relation to community safety:

- a. All decisions within the control of the Council including but not limited to those listed in the Table below
- b. Policy development in relation to community safety, subject to approval by the Policy Committee or the Full Council
- c. Review of performance in relation to the services provided on at least a quarterly basis
- d. Review of day to day operational decisions taken by officers
- e. Approval of consultation responses
- f. Approval of departmental staffing structures as required

24. If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy Committee.
25. As part of the detailed work programme the Committee will receive reports on the exercise of powers delegated to Officers.
26. The Committee will be responsible for its own projects but, where it considers it appropriate, projects will be considered by a cross-committee project steering group that will report back to the most appropriate Committee.

Table
Responsibility for the following statutory duties:- <ul style="list-style-type: none"> <li>• community safety</li> <li>• as a Food Authority</li> <li>• as a Weights and Measures Authority</li> <li>• as a Trading Standards Authority and in relation to consumer protection and advice</li> <li>• the Coroner's Service</li> </ul>
Responsibility for civil defence and emergency planning
Responsibility for the registration services for births, deaths and marriages
Responsibility for the safety of sports grounds

## CULTURE COMMITTEE – TERMS OF REFERENCE

27. The exercise of the powers and functions set out below are delegated by the Full Council in relation to culture:
- a. All decisions within the control of the Council including but not limited to those listed in the Table below
  - b. Policy development in relation to culture, subject to approval by the Policy Committee or the Full Council
  - c. Review of performance in relation to the services provided on at least a quarterly basis
  - d. Review of day to day operational decisions taken by officers
  - e. Approval of consultation responses
  - f. Approval of departmental staffing structures as required
28. If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy Committee.

29. As part of the detailed work programme the Committee will receive reports on the exercise of powers delegated to Officers.
30. The Committee will be responsible for its own projects but, where it considers it appropriate, projects will be considered by a cross-committee project steering group that will report back to the most appropriate Committee.

Table
Responsibility for libraries and archives
Responsibility for adult learning
Responsibility for strategic development of the arts
Responsibility for development of cultural and heritage activities
Responsibility for support for sports development and sports facilities throughout the County
Responsibility for country parks, open spaces and other countryside services
Responsibility for promotion and development of tourism in the County
Responsibility for conservation and archaeology

### **ECONOMIC DEVELOPMENT COMMITTEE – TERMS OF REFERENCE**

31. The exercise of the powers and functions set out below are delegated by the Full Council in relation to economic development:
- a. All decisions within the control of the Council including but not limited to those listed in the Table below
  - b. Policy development in relation to economic development, subject to approval by the Policy Committee or the Full Council
  - c. Review of performance in relation to the services provided on at least a quarterly basis
  - d. Review of day to day operational decisions taken by officers
  - e. Approval of consultation responses
  - f. Approval of departmental staffing structures as required
32. If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy Committee.
33. As part of the detailed work programme the Committee will receive reports on the exercise of powers delegated to officers.
34. The Committee will be responsible for its own projects but, where it considers it appropriate, projects will be considered by a cross-committee project steering group that will report back to the most appropriate committee.

Table
Responsibility for promoting economic development, regeneration and associated activities
Responsibility for liaising with business clubs in the County

**ENVIRONMENT AND SUSTAINABILITY COMMITTEE – TERMS OF REFERENCE**

35. The exercise of the powers and functions set out below are delegated by the Full Council in relation to environment and sustainability:
- a. All decisions within the control of the Council including but not limited to those listed in the Table below
  - b. Policy development in relation to environment and sustainability, subject to approval by the Policy Committee or the Full Council
  - c. Review of performance in relation to the services provided on at least a quarterly basis
  - d. Review of day to day operational decisions taken by officers
  - e. Approval of consultation responses
  - f. Approval of departmental staffing structures as required
36. If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy Committee.
37. As part of the detailed work programme the Committee will receive reports on the exercise of powers delegated to officers.
38. The Committee will be responsible for its own projects but, where it considers it appropriate, projects will be considered by a cross-committee project steering group that will report back to the most appropriate Committee.

Table
Responsibility for all matters relating to minerals and waste planning not falling within the delegation of any other committee.
Responsibility for all matters relating to Council's role as Waste Disposal Authority.
Responsibility for the Local Improvement Scheme
Responsibility for making observations on planning matters on which the County Council is consulted, in accordance with the agreed protocol
Responsibility for all matters relating to environmental awareness and sustainability
Responsibility for any matter relating to the control of pollution or the management of air quality

## **HEALTH AND WELLBEING BOARD (SHADOW) – TERMS OF REFERENCE**

39. Preparing and publishing a Joint Strategic Needs Assessment of the population of Nottinghamshire.
40. Preparing a Health and Wellbeing Strategy based on the needs identified in the Joint Strategic Needs Assessment and overseeing the implementation of the strategy.
41. Ensuring that commissioning plans have due regard to the Joint Strategic Needs Assessment and the Health and Wellbeing Strategy.
42. Promoting integrated working including joint commissioning in order to deliver cost effective services and appropriate choice. This will also include joint working with services that impact on wider health determinants.

**NOTE:** This Committee is in shadow form until the Health and Social Care Act's statutory powers are in place from April 2013.

## **HEALTH SCRUTINY COMMITTEE – TERMS OF REFERENCE**

43. Responsibility for scrutinising health matters in the areas covered by the Clinical Commissioning Groups for Ashfield, Bassetlaw, Mansfield and Newark and Sherwood.

## **JOINT COMMITTEE ON APPOINTMENTS TO THE POLICE AUTHORITY – TERMS OF REFERENCE [UNTIL NOVEMBER 2012]**

44. To appoint Councillor members to the Nottinghamshire Police Authority in accordance with relevant legislation.

## **JOINT COMMITTEE FOR STRATEGIC PLANNING AND TRANSPORTATION – TERMS OF REFERENCE**

45. To advise the County Council and the City Council on strategic planning and transport matters taking account the best interests of the whole of Greater Nottingham.

## **JOINT CITY/COUNTY HEALTH SCRUTINY COMMITTEE – TERMS OF REFERENCE**

46. To scrutinise health matters which impact on the areas covered by Nottingham City Council and the Broxtowe, Gedling, Hucknall and Rushcliffe areas of Nottinghamshire.
47. Where an NHS Trust operates in a wider area than above, to scrutinise any health matter which affects that area with the proviso that it will defer to the relevant City or County Health scrutiny body as requested.



## **LOCAL JOINT RESOLUTIONS COMMITTEE – TERMS OF REFERENCE**

48. The exercise of the powers and functions set out below are delegated by the Full Council:

- a. Responsibility for considering any issues where agreement cannot be reached between management and the trade unions.

**NOTE:** The Committee will have no delegated authority; any recommendations will be referred either to the Personnel Committee or to the Full Council for approval. This Committee will meet only as and when required.

## **PLANNING AND LICENSING COMMITTEE – TERMS OF REFERENCE**

49. The exercise of the powers and functions set out below are delegated by the Full Council:

- a. Responsibility for the regulatory functions of the Council in relation to planning, monitoring, enforcement and licensing.
- b. Responsibility for all licensing functions given to the Authority by law, except safety of sports grounds.
- c. Receiving reports on the exercise of powers delegated to officers in relation to functions for which this Committee is responsible.

## **RIGHTS OF WAY COMMITTEE – TERMS OF REFERENCE**

50. The exercise of the powers and functions set out below are delegated by the Full Council:

- a. Responsibility for discharging the Council's regulatory powers relating to:
  - public rights of way
  - cycle tracks
  - gating orders on recommendation from the relevant committee or as necessary
  - common land
  - town and village greens
  - non-statutory public access routes
  - land management agreements
  - permissive paths
- b. Receiving reports on the exercise of powers delegated to officers in relation to functions for which this Committee is responsible

## **TRANSPORT AND HIGHWAYS COMMITTEE – TERMS OF REFERENCE**

51. The exercise of the powers and functions set out below are delegated by the Full Council in relation to transport and highways:

- a. All decisions within the control of the Council including but not limited to those listed in the Table below

- b. Policy development in relation to transport and highways, subject to approval by the Policy Committee or the Full Council
- c. Review of performance in relation to the services provided on at least a quarterly basis
- d. Review of day to day operational decisions taken by officers
- e. Approval of consultation responses
- f. Approval of departmental staffing structures as required

52. If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy Committee.

53. As part of the detailed work programme the Committee will receive reports on the exercise of powers delegated to officers.

54. The Committee will be responsible for its own projects but, where it considers it appropriate, projects will be considered by a cross-committee project steering group that will report back to the most appropriate Committee.

Table
Responsibility for transport and highways (except those which are delegated to other committees) including: <ul style="list-style-type: none"> <li>• the planning, management and maintenance of highways including traffic management and residents' parking schemes</li> <li>• the development of integrated transport systems</li> <li>• road safety</li> </ul>
Responsibility for making highways observations relating to planning applications, on which the County Council is consulted as required by the agreed protocol
Responsibility for the provision of passenger transport services, including bus and rail initiatives
Responsibility for the Council's highways internal trading organisations

## **INTERNAL MANAGEMENT COMMITTEES**

### **ADMINISTRATION COMMITTEE – TERMS OF REFERENCE**

55. The exercise of the powers and functions set out below are delegated by the Full Council to the Administration Committee:

- a. Approving all Councillor attendance at conferences, seminars and training events, including any expenditure incurred, and officer travel outside the UK.
- b. Approving appointments to outside bodies and determining which committee should receive regular updates from those outside bodies.
- c. Approving the level and nature of support services for County Councillors including IT.
- d. Authorising hospitality to be offered by the County Council except where the cost is to be covered by the Chairman of the County Council's individual budget.
- e. Responsibility for resolving any issues arising from the Members' Allowances Scheme
- f. Responsibility for determining any variation to maximum rates for dependent care allowances in the light of particular individual circumstances.

### **AUDIT COMMITTEE – TERMS OF REFERENCE**

56. The exercise of the powers and functions set out below are delegated by the Full Council:

- a. Responsibility for advising Council on the adequacy of the Council's systems of internal control and overseeing the external auditor's annual audit of the accounts
- b. Responsibility for maintaining an overview of the Council's Financial Regulations and anti-fraud and anti-corruption strategies

### **FINANCE AND PROPERTY COMMITTEE – TERMS OF REFERENCE**

57. The exercise of the powers and functions set out below are delegated by the Full Council in relation to finance and property:

- a. All decisions within the control of the Council including but not limited to those listed in the Table below
- b. Policy development in relation to finance and property, subject to approval by the Policy Committee or the Full Council

- c. Review of performance in relation to the services provided on at least a quarterly basis
  - d. Review of day to day operational decisions taken by officers
  - e. Approval of consultation responses
  - f. Approval of departmental staffing structures as required
58. If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy Committee.
59. As part of the detailed work programme the Committee will receive reports on the exercise of powers delegated to officers.
60. The Committee will be responsible for its own projects but, where it considers it appropriate, projects will be considered by a cross-committee project steering group that will report back to the most appropriate Committee.

Table
Responsibility for the financial management of the Authority including recommending to Council the financial strategy, annual revenue budget, annual capital budget, asset management plan and precept on billing authorities
Responsibility for the monitoring, reviewing and development of the financial framework of the Council including its audit, investments, budgeting and accounting functions
Responsibility for corporate procurement
Responsibility for all property related functions including acquisitions and disposals
Responsibility for property design and construction and related consultancy services
Responsibility for the Council's information and communication technology (ICT) strategy
Responsibility for monitoring the Councillors' Divisional Fund
Responsibility for the Council's County Supplies internal trading organisation
Reviewing and recommending Financial Regulations to the Council for adoption

## NOTTINGHAMSHIRE PENSION FUND COMMITTEE – TERMS OF REFERENCE

61. The exercise of the powers and functions set out below are delegated by the Full Council in relation to pensions:
- a. All decisions within the control of the Council including but not limited to those listed in the Table below

- b. Policy development in relation to pensions, subject to approval by the Policy Committee or the Full Council
- c. Review of performance in relation to the services provided on at least a quarterly basis
- d. Review of day to day operational decisions taken by officers
- e. Approval of consultation responses

62. If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy Committee.

63. As part of the detailed work programme the Committee will receive reports on the exercise of powers delegated to officers.

64. The Committee will be responsible for its own projects but, where it considers it appropriate, projects will be considered by a cross-committee project steering group that will report back to the most appropriate Committee.

Table
Administering the Nottinghamshire Pension Fund, including investments by and management of pension funds

**NOTE:** The County Council administers this Pension Fund on behalf of Nottinghamshire County Council, Nottingham City Council, the District and Borough Councils and other admitted bodies in Nottinghamshire.

**PENSIONS INVESTMENT SUB-COMMITTEE – TERMS OF REFERENCE**

65. This is a sub-committee of the Nottinghamshire Pension Fund Committee

66. The exercise of the powers and functions set out below are delegated:

- a. Responsibility for investment performance management of the Fund Managers and making appropriate recommendations to the Nottinghamshire Pension Fund Committee.

**PENSIONS SUB-COMMITTEE – TERMS OF REFERENCE**

67. This is a sub-committee of the Nottinghamshire Pension Fund Committee

68. The exercise of the powers and functions set out below are delegated:

- a. Responsibility for making recommendations to the Nottinghamshire Pension Fund Committee on matters relating to the administration and investment of the Pensions Fund.

## **PERSONNEL COMMITTEE – TERMS OF REFERENCE**

69. The exercise of the powers and functions set out below are delegated by the Full Council in relation to personnel:
- a. All decisions within the control of the Council including but not limited to those listed in the Table below
  - b. Policy development in relation to personnel, subject to approval by the Policy Committee or the Full Council
  - c. Review of performance in relation to the services provided on at least a quarterly basis
  - d. Review of day to day operational decisions taken by officers
  - e. Approval of consultation responses
70. If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy Committee.
71. As part of the detailed work programme the Committee will receive reports on the exercise of powers delegated to officers.
72. The Committee will be responsible for its own projects but, where it considers it appropriate, projects will be considered by a cross-committee project steering group that will report back to the most appropriate Committee.

Table
Responsibility for the pay, terms and conditions of service and training of employees except for approving the annual Senior Officer Pay Policy Statement which is reserved to the Full Council
Responsibility for employee relations including arrangements for consultation/ negotiation with Trades Unions
Responsibility for health and safety related matters
Reviewing and recommending Staffing Regulations to the Council for adoption
Reviewing annually the overall staffing structure of the Council
Considering any matters relating to Trade Union recognition
Responsibility for the Council's catering and facilities management internal trading organisation

## **APPEALS SUB-COMMITTEE – TERMS OF REFERENCE**

73. This is a sub-committee of the Personnel Committee
74. The exercise of the powers and functions set out below are delegated by the Full Council:

- a. Responsibility for determining appeals and complaints by employees under the Council's disciplinary, grievance and harassment procedures and other employment related procedures (This does not include appeals relating to pay, grading or discretionary awards in respect of redundancy or early retirement)
- b. Responsibility for appeals against decisions not to include providers, or to remove them from the Council's directory of providers for funded early years education

**NOTE:** Complaints Review Panels are not formal meetings of the County Council. The responsibilities of these Panels are contained in the Complaints Procedures.

### **SENIOR STAFFING SUB-COMMITTEE – TERMS OF REFERENCE**

75. This is a sub-committee of the Policy Committee.

76. The exercise of the powers and functions set out below are delegated by the Full Council to the Senior Staffing Sub-Committee:-

- a. Responsibility for the appointment and dismissal of, and taking disciplinary action against, senior employees as set out in the Employment Procedure Rules

### **NOTE:-**

- The appropriate committee chairman for the post being considered will always be present as a member of the Sub-Committee. Where the issue being considered relates to the Council's Chief Executive or a Corporate Director the Sub-Committee will have a membership of nine; otherwise the Sub-Committee will have a membership of five.
- The Sub-Committee will be required to follow the Council's Recruitment and Selection Code of Practice.
- The procedures the Sub-Committee is required to follow are set out in the Council's Staffing Regulations.

### **STANDARDS COMMITTEE – TERMS OF REFERENCE [UNTIL JULY 2012]**

77. The exercise of the powers and functions set out below are delegated to the Standards Committee:

- a. Responsibility for discharging the Council's regulatory powers as follows:
  - Promoting and maintaining high standards of conduct for Councillors and co-opted members and helping them follow the Code of Conduct
  - Monitoring the effectiveness of the Code of Conduct
  - Advising on Councillor training in matters of conduct
  - Dealing with all matters relating to any alleged breaches of the Code of Conduct for Members

- Granting dispensations to Councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct
- Considering applications from officers for exemption from political restriction in respect of the post held by that officer



## **PART B – SCHEME OF DELEGATION TO OFFICERS**

1. This Scheme sets out the delegated powers of officers of the County Council. For the purposes of the Scheme of Delegation the term 'Corporate Director' includes the Chief Executive.
2. Corporate Directors may delegate these powers to other officers and must ensure they appoint another officer to substitute in their absence.
3. Officers can only exercise delegated powers in accordance with approved policies and decisions made by committees or the Full Council.
4. All matters which are not day to day operational matters or contained in this Scheme of Delegation must be decided by the relevant committee. For urgent decisions see the Procedure for Urgent Decisions.
5. The chairman of the relevant committee may request an officer not to exercise their delegated power in any particular case and, if so, a report will be taken to the next available meeting of this committee for consideration.
6. Appointments of staff below Service Director level will be made by Officers. Any other appointment must be made by the Senior Staffing Sub-Committee.
7. Corporate Directors may not add to the establishment of their departments except in accordance with Employment Procedure Regulations, or any other specific committee approval.
8. Corporate Directors will agree with their respective chairman and vice-chairman the nature and level of information they require regarding the exercise of officers' delegated powers.
9. Corporate Directors must ensure that adequate arrangements are in place to brief and consult committee chairmen (or vice-chairmen in their absence) within their service areas as agreed with these chairmen.
10. Corporate Directors will exercise their delegated powers in accordance with any requirements of the Chief Executive.
11. Corporate Directors must ensure that their department maintains a list of specific delegations to officers, which must be available for public inspection at all times.
12. Corporate Directors have authority to exercise the powers of the County Council in the event of an emergency or disaster, including making or approving any arrangements for the protection of persons or property, and will report back to the next appropriate committee or meeting Council in the event that this authority is exercised.
13. Corporate Directors have authority to decide whether or not to commence or defend proceedings within their areas of responsibility. This includes decisions on settlements which must be made in consultation with the Group Manager, Legal and Democratic Services and the Chief Finance Officer. Policy Committee will receive regular reports on settlements.

14. Corporate Directors have authority to settle ombudsman complaints and to determine payments under the Payments for Maladministration Policy. Policy Committee will receive regular reports on the operation of the Policy and payments.
15. Corporate Directors have authority to determine ex-gratia claims of up to £1,000 in respect of employees or volunteers carrying out their duties who suffer damage to personal belongings. Personnel Committee will receive regular reports.
16. The Chief Executive, the Corporate Director Policy, Planning and Corporate Services, the Group Manager Legal and Democratic Services and Principal and Senior Solicitors have authority to certify the fixing of the Common Seal of the Council to a document where this is required in order to give effect to a decision.

### **CHIEF EXECUTIVE**

17. The exercise of the responsibilities set out below are delegated by the County Council:
  - a. Taking all operational decisions necessary to secure the provision of services and/or the discharge of statutory functions, including the power to enter into contracts, in accordance with approved policies and Financial Regulations across the Authority.
  - b. Making any decision normally reserved to committee or another officer in accordance with the Urgency Procedure Rules.
  - c. Taking any decision on any matter not reserved to another officer by law.
  - d. Holding to account Corporate Directors for the performance of their departments.

### **CORPORATE DIRECTOR ADULT SOCIAL CARE, HEALTH AND PUBLIC PROTECTION**

18. The exercise of the responsibilities set out below are delegated by the County Council:
  - a. Taking all operational decisions necessary to secure the provision of services and/or the discharge of statutory functions, including the power to enter into contracts, in accordance with approved policies and Financial Regulations in relation to the following areas:

Adult social care including:

- Safeguarding
- Mental health
- Disability
- Older people
- Residential services
- Day services

Public protection including:

- Trading Standards
- Emergency management
- Registration services

b. Holding officers to account for the performance of their service areas

## **CORPORATE DIRECTOR CHILDREN, FAMILIES AND CULTURAL SERVICES**

19. To be the designated Director of Children Services in accordance with Section 19 of the Children's Act 2004.

20. The exercise of the responsibilities set out below are delegated by the County Council:

a. Taking all operational decisions necessary to secure the provision of service and/or the discharge of statutory functions, including the power to enter into contracts, in accordance with approved policies and Financial Regulations in relation to the following areas:

- Education
- Special educational needs and disability
- Safeguarding
- Children's social care
- Youth services
- Libraries
- Country parks
- Sport and Arts
- Early Years

b. Holding officers to account for the performance of their service areas.

c. Approving school governor appointments for which the Council has responsibility and reporting these decisions quarterly to the Children and Young People's Committee.

## **CORPORATE DIRECTOR ENVIRONMENT AND RESOURCES**

21. The exercise of the responsibilities set out below are delegated by the County Council:

a. Taking all operational decisions necessary to secure the provision of service and/or the discharge of statutory functions, including the power to enter into contracts, in accordance with approved policies and Financial Regulations in relation to the following areas:

- Waste Disposal
- Transport
- Highways

- Property
- Financial Services
- Information and Communications Technology (ICT)
- Catering and Facilities Management
- Holding officers to account for the performance of their service areas.
- Human Resources and Customer Services

## **CORPORATE DIRECTOR POLICY, PLANNING AND CORPORATE SERVICES**

22. The exercise of the responsibilities set out below are delegated by the County Council:

- a. Taking all operational decisions necessary to secure the provision of service and/or the discharge of statutory functions, including the power to enter into contracts, in accordance with approved policies and Financial Regulations in relation to the following areas:
  - Improvement Programme
  - Planning
  - Corporate performance
  - Complaints
  - Economic development
  - Legal & Democratic Services
  - Policy development
  - Localism
  - Grant aid administration
  - Equalities
  - Community Engagement
  - Community Safety
  - Communications and Marketing
  - Conservation
- b. Authorising the commencement or defence of, or participation in, any legal proceedings, including appearing in proceedings and signing documents necessary to any legal procedure, and authorising other officers to do so on behalf of the County Council.
- c. Holding officers to account for the performance of their service areas.

## **STATUTORY OFFICERS**

23. There is a legal requirement to allocate some specific responsibilities to officers and the Council has designated the following posts:

Chief Executive	Head of Paid Service & Proper Officer
Corporate Director Policy, Planning and Corporate Services	Monitoring Officer
Service Director Financial Services	Chief Finance Officer (also known as Section 151 Officer)

## **HEAD OF PAID SERVICE**

24. Responsibility for reporting to the Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

**NOTE:** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

## **PROPER OFFICER**

25. Responsibility for acting as the Proper Officer as set out in Section 270(3) of the Local Government Act 1972 in connection with committees.

## **MONITORING OFFICER**

26. Responsibility for maintaining the Constitution, ensuring it is available for inspection and making minor changes as a result of any restructuring.

27. Responsibility for ensuring the lawfulness and fairness of decision making; this includes authority, after consulting with the Head of Paid Service and Chief Finance Officer, to report to the Full Council if they consider that any proposal, decision or omission would give rise to unlawfulness or maladministration.

28. Responsibility for contributing to the promotion and maintenance of high standards of conduct.

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

## **CHIEF FINANCE OFFICER**

29. Responsibility for ensuring the lawfulness and financial prudence of decision making; this includes authority, after consulting with the Head of Paid Service and Monitoring Officer, to report to the Full Council if they consider that any proposal, decision or omission would give rise to unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

30. Responsibility for the administration of the financial affairs of the Council.

31. Responsibility for providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity.

32. Responsibility for providing financial information to the media, members of the public and the community.

**NOTE:** The Chief Finance Officer cannot be the Monitoring Officer but may hold the post of Head of Paid Service.



**PART FIVE**  
**DEMOCRACY**  
**PROCEDURES**

## **PART A – PROCEDURE RULES FOR MEETINGS OF THE FULL COUNCIL**

### **INTRODUCTION**

1. These rules are designed to ensure meetings of the Full Council run smoothly and are conducted properly.
2. So far as the law allows, any of these rules may be suspended at any meeting of the Full Council, either for the whole meeting or for a particular item on the agenda. In order to achieve this, a motion must be moved and seconded and a vote carried.
3. For the annual budget meeting some procedure rules will be suspended and alternative rules applied. See paragraph 87 below.

### **ARRANGEMENTS FOR MEETINGS**

4. Full Council meetings are normally held every 8 weeks on a Thursday. Meetings normally start at 10.00am.
5. The agenda and papers for meetings of the Full Council must be available at least five clear working days before the meeting.
6. Meetings of the Full Council will not continue beyond midnight unless it appears to the Chairman that the meeting will finish shortly after that time. Any remaining business will be held over until the next meeting. The annual budget meeting will continue beyond midnight if necessary.
7. The annual meeting of the Full Council is normally held each May.
8. The County Council's annual budget will normally be considered at the February meeting.
9. A special meeting will be arranged if the Chairman of the Council, the Council Leader, or any five County Councillors request such a meeting. A Special Meeting will be held on any day of the week.

### **MINIMUM ATTENDANCE (QUORUM)**

10. At least one quarter (17) of the whole number of elected County Councillors must be present for the meeting to proceed or continue.
11. If the Chairman or the Chief Executive concludes that an insufficient number of Councillors is present the meeting will not proceed. The Division Bell will be sounded, and if after more than five minutes there is still an insufficient number present at the meeting it will be adjourned to a time fixed by the Chairman.



## **ORDER OF BUSINESS**

12. Except for the annual meeting at which the election of Chairman and Vice-Chairman will be considered first, the order of business will usually be:

- a. the choice of a person to preside if the Chairman and Vice-Chairman are absent
- b. any business having priority by law
- c. confirmation of the minutes of the last meeting of the Full Council
- d. apologies for absence, including reasons
- e. declarations of interest
- f. business outstanding from the last meeting
- g. Chairman of the County Council's business
- h. constituency speeches
- i. petitions
- j. questions to Nottinghamshire Police Authority and Nottinghamshire Fire Authority and responses
- k. questions to Committee Chairmen and responses
- l. clarification on minutes of committee meetings
- m. reports for decision by the Full Council
- n. consideration of motions
- o. any debate adjourned from earlier in the meeting (Adjournment Debate)

## **OTHER POINTS REGARDING THE ORDER OF BUSINESS**

13. At any time during the meeting the Chairman can adjourn the meeting.

14. The order of business can be varied at the discretion of the Chairman.

15. The minutes of ordinary meetings will not normally be confirmed at special meetings.

## **DECLARATIONS OF INTEREST**

16. Where any Councillor has an interest in any matter to be discussed or decided, they will, in accordance with the Council's Code of Conduct for Members, declare the existence and nature of that interest and whether the interest is personal, or personal and prejudicial. Any declaration of interest will be recorded in the minutes of the meeting.
17. Where any Councillor has declared a prejudicial interest in a contract, grant, proposed contract or other matter, they will leave the room in which the meeting is being held while the matter is under consideration unless:
  - a. the disability to discuss, or vote upon any matter arising from the contract or other matter has been removed by the Standards Committee; or
  - b. the contract, grant, proposed contract or other matter is under consideration by the meeting as part of a report of the Minutes of Council, a committee or sub-committee and is not itself the subject of debate.
18. If the Councillor has chosen to remain within easy reach, that Councillor will be recalled by an appropriate officer before any further business is started.
19. Any person or officer of the authority who is appointed to do anything in connection with the County Council which enables them to speak at meetings, will make the same disclosures of prejudicial interest and will withdraw from the room in which the meeting is being held on the same occasions as they would have to do if they were a County Councillor.

## **CONSTITUENCY SPEECHES**

20. At any Full Council meeting except the annual meeting, a special meeting and the annual budget meeting, Councillors will be given an opportunity to speak for up to three minutes on any issue arising in their division.
21. Such a speech will not give rise to a debate or a question and answer session.
22. Any Councillor who wishes to make a three minute speech must notify Democratic Services by 10 am two working days before the Full Council meeting.
23. A maximum of 30 minutes is allowed for this item. If the number of Councillors wishing to make three minute speeches is such that this 30 minute allocation would be exceeded, Councillors authorised to speak will be decided by ballot based on political proportionality.

## **PETITIONS**

24. In accordance with the Council's Petitions Scheme, at any Full Council meeting any Councillor may present a petition to the Chairman of the Council on any matter affecting the residents of their division, and in relation to which the County Council has powers or duties.

25. Any Councillor who wishes to submit a petition must notify Democratic Services by 10 am the day before the meeting, giving details about the petition.
26. The Councillor presenting the petition can introduce and speak about the petition for up to one minute.
27. If a Councillor is unable to be at the meeting, they may request and agree to another Councillor presenting a petition on their behalf.
28. If a petition relates to more than one division the petition can be presented jointly if the relevant Councillors agree. If agreement cannot be reached the petition will be presented by the Council's Vice-Chairman.
29. Any petition presented will be referred without debate to the appropriate committee for consideration. A report back to Council on the outcome of that consideration will be made at its next meeting.
30. If a petition relates to the annual budget it will be included within the consultation responses and will not be presented separately under the normal petitions scheme.

#### **QUESTIONS TO COMMITTEE CHAIRMEN**

31. At any meeting of the Full Council, except the annual budget meeting, a Councillor may ask any committee chairman one or more questions on matters within the remit of their committee. A maximum of 30 minutes is allowed for questions to Committee Chairmen after which any remaining questions will be dealt with under the procedure set out in paragraph 38.
32. At any meeting of the Full Council, except the annual budget meeting, a Councillor may ask the Chairman of Nottinghamshire Police Authority or Nottinghamshire and City of Nottingham Fire Authority one or more questions on matters within the remit of their authority. A maximum of 30 minutes is allowed for these questions after which any remaining questions will be dealt with under procedure set out in paragraph 38.
33. Councillors must post a copy of their question(s) under paragraph 31 and 32 in the box in Democratic Services or email [council.questions@nottscc.gov.uk](mailto:council.questions@nottscc.gov.uk) no later than 10 am two working days before the meeting.
34. The order in which questions are put at the meeting will be determined by the Chairman.
35. After receiving an answer from the relevant chairman, or their nominee, that Councillor, or any other Councillor, may ask supplementary questions on the same matter. The original questioner has the right to ask the first supplementary question. The number of supplementary questions allowed will be at the discretion of the Chairman having regard to paragraph 31 and 32 above.

36. Instead of asking a supplementary question the original questioner has the right to require a debate. Such a request must be made prior to any supplementary questions being asked. If the motion for a debate is seconded the matter will then be adjourned for debate later in the meeting under the 'Adjournment Debate' item on the agenda and no supplementary questions can be asked.
37. The same supplementary question procedures apply to questions to the Chairman of the Police Authority or the Fire Authority except that there is no right to request an adjournment debate.

### **QUESTIONS REQUIRING A WRITTEN RESPONSE**

38. Any Councillor may at any time, by writing to Democratic Services, put a question to a committee chairman and will be sent a reply within 15 working days. Every such question and the answer given will be included for information with papers for the next convenient Full Council meeting.

### **CLARIFICATION OF MINUTES**

39. Any Councillor may ask the relevant committee chairman for clarification of any issue contained in the minutes of meetings published since the last meeting of Full Council. No general debate will take place.
40. The number of points of clarification permitted will be at the discretion of the Chairman.

### **CONSIDERATION OF REPORTS FOR DECISION BY COUNCIL**

41. Reports are introduced by the relevant committee chairman.
42. The report recommendation is then 'moved' by one Councillor and 'seconded' by another Councillor. It then becomes a 'motion' for debate. The motion is then debated before a vote is taken.

### **CONSIDERATION OF INDIVIDUAL MOTIONS TABLED BY COUNCILLORS IN ADVANCE OF MEETINGS**

43. Councillors may raise an issue at Full Council meetings by submitting a motion. The procedure for submitting a motion for debate is as follows:
- a. Notice must be given either by submitting a signed copy of the motion to Democratic Services or by emailing [council.questions@nottscc.gov.uk](mailto:council.questions@nottscc.gov.uk) no later than 10 am six clear working days before the Full Council meeting.
  - b. The motion must be proposed and seconded.
  - c. The motion will be included in the agenda for the meeting.

## **MOTIONS NOT REQUIRING PRIOR WRITTEN NOTICE**

44. Motions can be moved and seconded orally at meetings to ensure meetings run smoothly and are conducted properly. The following are examples of such motions:

- a. appointment of a chairman for the meeting in the absence of the Chairman and Vice-Chairman
- b. request to withdraw a motion
- c. that the matter be put to a vote
- d. that the meeting be adjourned
- e. variation of the order of business
- f. suspension of the procedure rules
- g. exclusion of the public
- h. that a named Councillor should not be heard further

45. Motions relating to the following may be moved and seconded without notice but must be provided in writing to the Chairman when being moved

- a. amendments to motions
- b. the appointment of Councillors to Committees

## **THE RULES OF DEBATE**

46. If a Councillor wishes to speak they should indicate their intention by raising their hand.

47. The Chairman will decide the order in which speakers will be heard. Any Councillor who wishes to speak will be given the opportunity to do so unless any of the exceptions contained in these rules of debate apply.

48. Councillors can speak for a maximum of 20 minutes subject to any exceptions set out below.

49. Councillors will stand when speaking and must address the Chairman.

50. Councillors must speak strictly to the subject under discussion.

51. Whenever the Chairman stands during a debate any Councillor standing must sit down and the Full Council must be silent.

52. Any Councillor may at anytime during a meeting request that the meeting be adjourned for up to one hour. The Chairman of the meeting has discretion to decide whether to agree the request and, if agreed, to determine the length of any such adjournment
53. Councillors may speak once on any motion. However if a motion is amended, Councillors may speak once on each amendment.
54. If the motion has been amended since the Councillor last spoke, that Councillor may move a further amendment to the motion.
55. The Councillor who moved the original motion has a right of reply at the close of the debate on that motion or any agreed amendment.
56. If an amendment to a motion has been moved and seconded, the mover of the original motion has the right of reply at the close of the debate on the amendment, following the mover of the amendment's closing remarks.
57. A motion may be altered with the consent of the mover and seconder.

#### **POINTS OF ORDER AND PERSONAL EXPLANATIONS**

58. With the consent of the Chairman any Councillor may make a brief comment, ask a question designed to clarify a matter which has been raised, or indicate where they feel the procedure rules have not been followed. They may not introduce new material or make a speech on the issue raised.
59. The Chairman of the County Council's ruling will be final and they may limit such exchanges to maintain the flow of debate.

#### **AMENDMENTS TO RECOMMENDATIONS AND MOTIONS**

60. Amendments to a motion can be moved or seconded by any Councillor in the following situations:
  - a. to refer a subject of debate to a committee for further consideration
  - b. to leave out words, to add words or both provided that such changes must not have the effect of reversing a proposal (for example to recommend approval instead of refusal) and must be relevant to the original motion.
61. The motion will remain in the name of the original mover if they propose or accept the amendment.
62. Amendments must be dealt with and voted on one at a time, subject to the exceptions set out in the Rules of Debate.
63. If a motion to move an amendment is rejected following a vote then alternative amendments can be moved.

64. If an amendment is not accepted by the mover of the original motion, the following procedure will apply:-

- a. the amendment will be debated
- b. a vote will then be taken on whether the amendment should become the substantive motion
- c. if the amendment is carried, then the new substantive motion will be in the name of the Councillor who moved the successful amendment
- d. debate will continue and further amendments may be moved
- e. after all amendments have been dealt with using the procedure stated above then a vote will be taken on the final substantive motion

### **BRINGING DEBATE TO EARLY CLOSURE**

65. A Councillor who has not already spoken on the matter may orally move a motion that a vote should be taken immediately. This must be seconded.

66. If the Chairman feels there has been sufficient discussion of the issue he may put the oral motion to the vote.

67. If the vote is carried the motion or amendment will be put to the vote following closing remarks by the proposer of the motion or amendment.

### **VOTING**

68. Votes in Full Council are to be determined by a show of hands.

69. Where there is an equal number of votes for and against a motion the Chairman can exercise a second or casting vote.

70. A recorded vote will be taken if 10 or more Councillors request it. The process will be as follows:

- a. The Division Bell will be sounded.
- b. The Chief Executive will then call the names of all Councillors and record the vote of each Councillor.
- c. The Chairman will announce the result.
- d. The minutes will record how each Councillor voted.

71. Any Councillor can require that the minutes of the meeting record how they voted on any decision taken.

## **ADJOURNMENT DEBATES**

72. The Councillor who requested the adjournment debate may speak on the matter referred to in their original question for up to five minutes.
73. After that, any other Councillor may speak on the matter for up to three minutes.
74. The relevant committee chairman may speak for up to five minutes in reply.
75. No vote will be taken on an adjournment debate.

## **REVERSING DECISIONS**

76. Normally any decision by the Full Council and its committees cannot be reversed for 6 months. However, in exceptional circumstances and on a motion proposed by a majority of the membership of the relevant committee/Council, a further report will be brought for the matter to be reconsidered.

## **DISORDERLY CONDUCT**

77. If, at any meeting, any Councillor in the opinion of the Chairman of the County Council misbehaves by persistently disregarding their ruling, or by behaving improperly or offensively, or by obstructing the business of the Full Council, the Chairman may move "that [the Councillor named] should not be further heard" and the motion, if seconded, will be voted on without discussion.
78. If any Councillor named continues the misconduct after a "should not be further heard" motion has been carried, the Chairman:
- a. may request the Councillor to leave the meeting; or
  - b. may adjourn the meeting of the Full Council for any period considered necessary
79. In the event of a general disturbance which in the opinion of the Chairman makes business impossible, the Chairman, may adjourn the meeting for any period considered necessary and/or order that the public leave.

## **ESTABLISHMENT OF COMMITTEES**

80. Every committee set up by the Full Council will perform the functions given to them until the Full Council resolves otherwise. Full Council can revise the functions of committees at any time.

## **APPOINTMENTS TO COMMITTEES**

81. Every person appointed to be a member of a committee or sub-committee will remain a member of that committee until the first of the following events:
- a. they cease to be a Councillor



- b. their resignation
- c. changes to political balance necessitate changes to committee membership
- d. removal by the Proper Officer at the request of their group

82. The Full Council is required to keep the allocation of seats to groups under review.

83. Whenever allocation of seats is considered by the Full Council the Chief Executive will submit a report showing what the allocation of seats should be in order to ensure committees reflect the overall political balance of the Council.

84. Democratic Services will ensure that all appointments to committees are reported to the next meeting of the appropriate committee.

85. Any changes in membership must be notified to Democratic Services no later than 3.30 pm on the working day before the relevant meeting.

#### **ANNUAL MEETING**

86. Subject to any statutory requirements, the Full Council at its annual meeting:

- a. Will elect the Chairman and Vice-Chairman of the County Council for the forthcoming year.
- b. Will resolve what committees and sub-committees will be established, the terms of reference and size of these committees and may appoint the chairman and vice-chairman of each committee.
- c. Will note the membership of each group and their agreed officers.

#### **ANNUAL BUDGET MEETING**

87. To ensure the smooth flow of business the following provisions will operate for the Annual Budget meeting:

- a. After the budget proposals have been moved and seconded any budget amendments will be moved and seconded. The seconders of the amendments may either speak to them when seconding or may reserve their speech for later in the debate.
- b. With the exceptions below, no Councillor will speak more than once or for more than 20 minutes:
  - the Councillor who moves the budget proposals is not subject to a time limit and is entitled to speak twice; once when moving proposals and once when replying to the debate

- the movers of any amendments may speak for an unlimited time when moving those amendments and for 20 minutes when summing up
- c. There will be a single debate on the motion and any amendments
- d. At the conclusion of the winding-up speeches, the amendments will be voted on in the order determined by the Chairman then a vote will be taken on the substantive motion.

## **OTHER**

88. Placards, banners, advertising materials and similar items are not permitted in any Council meeting.
89. Other than any recording carried out by approved Council staff, the use of recording devices and cameras is only allowed with the consent of the Chairman. If consent is given the Chairman will notify Full Council at the start of a meeting and in the event of objection by Councillors a vote will be taken.
90. Mobile phones must be switched to silent.

## **PART B – PROCEDURE RULES FOR COMMITTEE AND SUB-COMMITTEE MEETINGS**

### **INTRODUCTION**

1. These rules are designed to ensure meetings run smoothly and are conducted properly.
2. So far as the law allows any of these rules may be suspended at any meeting, either for the whole meeting or for a particular item on the agenda. In order to achieve this, a motion must be moved and seconded and a vote carried.

### **ARRANGEMENTS FOR MEETINGS**

3. The agenda and papers for meetings must be available at least five clear working days before the meeting.
4. A special meeting is arranged if the chairman or vice-chairman of the relevant committee, or any 4 of its members request such a meeting.

### **MINIMUM ATTENDANCE (QUORUM)**

5. The following number of elected County Councillors must be present for the meeting to proceed or continue:
  - a. Less than 15 voting members      3
  - b. 15 to 25 voting members          4
  - c. More than 25 voting members      5
6. If there is an insufficient number of Councillors present, the meeting will not proceed.

### **ORDER OF BUSINESS**

7. The order of business will usually be:
  - a. at the first meeting after the annual Council meeting, appointing or noting the appointment of the Chairman and Vice-Chairman of the committee
  - b. the choice of a person to preside if the Chairman and Vice-Chairman are absent
  - c. confirmation of the minutes of the last meeting of the committee
  - d. apologies for absence, including reasons
  - e. declarations of interest

- f. business outstanding from the last meeting
- g. reports for decision by committee
- h. reports for information
- i. work programme (if applicable)

## **OTHER POINTS REGARDING THE ORDER OF BUSINESS**

- 8. At any time during the meeting the Chairman can adjourn the meeting.
- 9. The order of business can be varied at the discretion of the Chairman.
- 10. The minutes of ordinary meetings will not normally be confirmed at special meetings.

## **DECLARATIONS OF INTEREST**

- 11. Where any Councillor has an interest in any matter to be discussed or decided, they will, in accordance with the Council's Code of Conduct for Members, declare the existence and nature of that interest and whether the interest is personal, or personal and prejudicial. Any declaration of interest will be recorded in the minutes of the meeting.
- 12. Where any Councillor has declared a prejudicial interest in a contract, grant, proposed contract or other matter, they will leave the room in which the meeting is being held while the matter is under consideration unless:
  - a. the disability to discuss, or vote upon any matter arising from the contract or other matter has been removed by the Standards Committee; or
  - b. the contract, grant, proposed contract or other matter is under consideration by the meeting as part of a report of the Minutes of a committee or sub-committee and is not itself the subject of debate.
- 13. If the Councillor has chosen to remain within easy reach, that Councillor will be recalled by an appropriate officer before any further business is started.
- 14. Any person or officer of the authority who is appointed to do anything in connection with the County Council which enables them to speak at meetings, will make the same disclosures of prejudicial interest and will withdraw from the room in which the meeting is being held on the same occasions as they would have to do if they were a County Councillor.
- 15. Anyone with a right to speak at a meeting, other than members of the public at Planning and Licensing Committee and Rights of Way Committee, must also declare any pecuniary interest and leave the room.

## **CONSIDERATION OF RECOMMENDATIONS IN REPORTS**

16. The report recommendation will be 'moved' by one Councillor and 'seconded' by another Councillor. It then becomes a 'motion' which may be debated before a vote is taken.
17. Motions relating to the following may be moved and seconded without notice but must be provided in writing to the Chairman when being moved:
  - a. an alternative to a recommendation in the report
  - b. amendments to motions

## **MOTIONS NOT REQUIRING PRIOR WRITTEN NOTICE**

18. The following motions can be moved and seconded orally to ensure meetings run smoothly and are conducted properly:
  - a. appointment of a Chairman for the meeting in the absence of the Chairman and Vice-Chairman
  - b. request to withdraw a motion
  - c. that the matter be put to a vote
  - d. that the meeting be adjourned
  - e. variation of the order of business
  - f. suspension of the procedure rules
  - g. exclusion of the public
  - h. that a named Councillor should not be heard further

## **THE RULES OF DEBATE**

19. If a Councillor wishes to speak they should indicate their intention by raising their hand.
20. The Chairman will decide the order in which speakers will be heard. Any Councillor who wishes to speak will be given the opportunity to do so unless any of the exceptions contained in these rules of debate apply.
21. Councillors can speak for a maximum of 20 minutes, subject to any exceptions set out below.
22. Councillors when speaking must address the Chairman.
23. Councillors must speak strictly to the subject under discussion.

24. Whenever the Chairman stands during a debate the committee must be silent.
25. Any Councillor may at anytime during a meeting request that the meeting be adjourned for up to one hour. The Chairman of the meeting has discretion to decide whether to agree the request and, if agreed, to determine the length of any such adjournment.
26. Councillors may speak once on any motion. However if a motion is amended, Councillors may speak once on each amendment.
27. If the motion has been amended since the Councillor last spoke, that Councillor may move a further amendment to the motion.
28. The Councillor who moved the original motion has a right of reply at the close of the debate on that motion or any agreed amendment.
29. If an amendment to a motion has been moved and seconded, the mover of the original motion has the right of reply at the close of the debate on the amendment following the mover of the amendment's closing remarks.
30. A motion may be altered with the consent of the mover and seconder.

#### **POINTS OF ORDER AND PERSONAL EXPLANATIONS**

31. With the consent of the Chairman any Councillor may make a brief comment, ask a question designed to clarify a matter which has been raised, or indicate where they feel the procedure rules have not been followed. They may not introduce new material or make a speech on this.
32. The Chairman's ruling on this will be final and they may limit such exchanges to maintain the flow of debate.

#### **AMENDMENTS TO RECOMMENDATIONS AND MOTIONS**

33. Amendments to a motion can be moved or seconded by any Councillor to leave out words, to add words or both provided that such changes must not have the effect of reversing a proposal (for example to recommend approval instead of refusal) and must be relevant to the original motion.
34. The motion will remain in the name of the original mover if they propose or accept the amendment.
35. Amendments must be dealt with and voted on one at a time, subject to the exceptions set out in the Rules of Debate.
36. If a motion to move an amendment is rejected following a vote then alternative amendments can be moved.

37. If an amendment is not accepted by the mover of the original motion, the following procedure will apply:-
- a. the amendment will be debated
  - b. a vote will then be taken on whether the amendment should become the substantive motion
  - c. if the amendment is carried, then the new substantive motion will be in the name of the Councillor who moved the successful amendment
  - d. debate will continue and further amendments may be moved
  - e. after all amendments have been dealt with using the procedure stated above then a vote will be taken on the final substantive motion

### **BRINGING DEBATE TO EARLY CLOSURE**

38. A Councillor who has not already spoken on the matter may orally move a motion that a vote should be taken immediately. This must be seconded.
39. If the Chairman feels there has been sufficient discussion of the issue he may put the oral motion to the vote.
40. If the vote is carried the motion or amendment will be put to the vote following closing remarks by the proposer of the motion or amendment.

### **VOTING**

41. Votes in committee are to be determined by a show of hands.
42. Where there is an equal number of votes for and against a motion the Chairman can exercise a second or casting vote.
43. A recorded vote will be taken if 2 or more Councillors request it. The process will be as follows:
- a. The names of all Councillors will be called and the vote of each Councillor recorded.
  - b. The Chairman will announce the result.
  - c. The minutes will record how each Councillor voted.
44. Any Councillor can require that the minutes of the meeting record how they voted on any decision taken.

## **REVERSING DECISIONS**

45. Normally any decision by the committee cannot be reversed for 6 months. However, in exceptional circumstances and on a motion proposed by a majority of the membership of the relevant committee, a further report will be brought for the matter to be reconsidered.

## **DISORDERLY CONDUCT**

46. If, at any meeting, any Councillor in the opinion of the Chairman of the meeting misbehaves by persistently disregarding their ruling, or by behaving improperly or offensively, or by obstructing the business of the meeting, the Chairman may move "that [the Councillor named] should not be further heard" and the motion, if seconded, will be voted on without discussion.

47. If any Councillor named continues the misconduct after a "should not be further heard" motion has been carried, the Chairman:

- a. may request the Councillor to leave the meeting; or
- b. may adjourn the meeting for any period considered necessary

48. In the event of a general disturbance which in the opinion of the Chairman makes business impossible, the Chairman, may adjourn the meeting for any period considered necessary and/or order that the public leave.

## **ATTENDANCE OF OTHER COUNTY COUNCILLORS**

49. Any County Councillor who wishes to attend a meeting of a committee or sub-committee of which they are not a member will be entitled to do so. With the consent of the meeting they will be entitled to speak on any matter affecting their electoral division or its inhabitants, but not to vote.

50. A County Councillor who attends a meeting in this capacity will be entitled to remain in the meeting when a resolution excluding the public is in force.

51. These provisions do not apply where a committee or sub-committee is exercising a function which is judicial in nature.

## **APPOINTMENTS TO COMMITTEES**

52. Any changes in a committee's membership must be notified to Democratic Services no later than 3.30 pm on the working day before the relevant meeting. (For the Health and Wellbeing Board, see paragraph 55 below)

53. Democratic Services will ensure that all appointments to committees are reported to the next meeting of the appropriate committee.



## **POLICY COMMITTEE**

54. When exercising its scrutiny functions, the Committee may invite people to discuss issues of local concern and/or answer questions. It may for example wish to hear from residents and representatives of other organisations.

## **HEALTH AND WELLBEING BOARD**

55. Substitute members can be appointed for the non-County Council representatives. Substitute members will have all the powers and duties of any ordinary member on the Board but will not be able to exercise any special powers or duties exercisable by the person they are substituting. Substitute members may attend meetings in this capacity only:-

- a. To take the place of the ordinary member for whom they are substituting where the ordinary member will be absent for whole of the meeting
- b. After the Proper Officer has been officially notified

## **PLANNING AND LICENSING COMMITTEE**

56. The Committee will comply with its Code of Best Practice

57. The Committee's Code of Best Practice sets out who is entitled to speak at meetings of Planning and Licensing Committee.

## **RIGHTS OF WAY COMMITTEE**

58. The Committee will comply with its Code of Best Practice

59. The Committee's Code of Conduct and Best Practice sets out who is entitled to speak at meetings of Rights of Way Committee.

## **PERSONNEL COMMITTEE**

60. That Trade Union representatives be entitled to speak but not to vote at meetings of Personnel Committee.

## **OTHER**

61. Placards, banners, advertising materials and similar items are not permitted in any committee meeting.

62. Other than any recording carried out by approved Council staff, the use of recording devices and cameras is only allowed with the consent of the Chairman. If consent is given the Chairman will notify the committee at the start of a meeting and in the event of objection by Councillors a vote will be taken.

63. Mobile phones must be switched to silent.



## **PART C – THE PROCEDURE FOR TAKING URGENT DECISIONS**

1. The Council's Constitution sets out who in the Council has authority to make decisions and the procedures for making those decisions.
2. Sometimes events will occur which require decisions to be taken urgently. The County Council needs to be able to respond quickly where failure to do so would not be in the public interest.
3. The procedure for taking urgent decisions should only be used where failure to take the decision quickly would, or would be likely to, harm the interests of the Council and the public, for example:
  - a. a service not being provided;
  - b. the Council breaking the law or financial rules;
  - c. the public being put at serious risk of harm;
  - d. the Council suffering financial loss;
  - e. consultation deadlines not being met.
4. The following are not suitable reasons for the use of the procedure:
  - a. poor planning;
  - b. the possibility of embarrassment being caused to an officer or Councillor;
  - c. the possibility of adverse publicity being caused to the Council;
  - d. in order to circumvent the requirements of Financial Regulations without good cause and justification.

### **OPTION A – URGENT DECISIONS BY COMMITTEE**

5. Where the agenda for the relevant committee has been published, an urgent item may be added to the agenda if it meets the urgency criteria set out in paragraphs 3 and 4. Democratic Services and the chairman of the committee will require an explanation before authorisation is given.
6. Every effort must be made to circulate the urgent report to Councillors at least 24 hours before the meeting.
7. The urgent report will be made available for public inspection as soon as possible.

### **OPTION B – CALLING AN ADDITIONAL MEETING**

8. The issue may be of such significance that it may be more appropriate to call an additional meeting. The procedure for calling additional meetings is set out in the Council Procedure Rules at paragraph 9 and the Committee Procedure Rules at paragraph 4.

## **OPTION C – DECISION BY THE CHIEF EXECUTIVE**

9. The Chief Executive may take a decision which is normally reserved to committee or another officer, where he believes that the decision is urgent, after first:
  - a. taking into account the guidelines set out in paragraphs 3 and 4 above; and
  - b. where possible, seeking the views of the following in respect of the proposed decision:-
    - the Leader of the Council,
    - the chairman and the vice-chairman of the relevant committee with authority to take the decision, and
    - the leader(s) of opposition group(s).
  - c. The Chief Executive will take into account any views he considers are relevant. The decision is the Chief Executive's alone.
  - d. The decision together with the reasons why it was urgent must be recorded in writing. The record of urgent decisions will be held by Democratic Services and will be made available for inspection.
  - e. Following the decision, a report will be submitted to the next available relevant committee meeting explaining:
    - the decision;
    - the reasons for it; and
    - why the decision was treated as a matter of urgency.
  - f. In the absence of the Chief Executive, his responsibilities under this procedure are delegated to a Corporate Director and all references to the Chief Executive under this procedure will also apply to that person.

## **REPORT ON USE OF THE URGENCY PROCEDURE**

10. In addition to any reports submitted to the relevant committee, twice yearly a report will be presented to Policy Committee detailing the number of occasions these provisions have been used and the reasons for their use.

**PART SIX**  
**GOVERNANCE**

## **PART A – FINANCIAL AFFAIRS**

### **BUDGET FRAMEWORK**

#### **BACKGROUND**

1. The Full Council is responsible for the approval of the Annual Budget. The Council's committees are responsible for implementing it.

#### **CONSULTATION**

2. Before the budget is adopted the Council will publish initial proposals, having first canvassed the views of local stakeholders and members of the public as appropriate.
3. Any representations made will be taken into account in formulating proposals, and shall be reflected in any report dealing with them.

#### **APPROVAL OF THE ANNUAL BUDGET**

4. The Full Council will be responsible for approving the annual budget.
5. In approving the annual budget the Council will also specify the extent of virement (the limits for the transfer of budget provision from one budget head to another) within the budget and degree of in-year changes to the Annual Budget.
6. The annual budget must be approved by the end of February each year.

#### **DECISIONS OUTSIDE THE ANNUAL BUDGET**

7. Subject to the provisions regarding virement set out in the Financial Regulations, committees and officers may take only those decisions which are in accordance with the Annual Budget.
8. Any decision outside the Annual Budget and the virement provisions must be taken by Full Council.
9. If cases of urgency the Urgency Procedure should be followed.

#### **ANNUAL ACCOUNTS**

10. The Council's Section 151 Officer is required by law to sign off the annual accounts by 30 June each year. These accounts will be presented to Full Council. Once the accounts are externally audited the final accounts will be presented to Full Council by 30 September as required by law.

## **FINANCIAL REGULATIONS**

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## 1. OVERVIEW

- 1.1 These Financial Regulations provide the framework of financial control and standards necessary to achieve the proper administration of the Council's financial affairs and are designed to safeguard the interests of both the Council and its employees. These Regulations cover the Council's main activities, its Trading Organisations and Pension Funds, and partnerships where the Council acts as the lead authority or where it acts as the accountable body.
- 1.2 A key objective of these regulations is to ensure that the Authority provides services to its users and the community in accordance with best value legislation. The regulations are designed to support Corporate Directors in achieving this aim whilst working within a framework of the principles of best value. Under the former Compulsory Competitive Tendering (CCT) system, value for money was generally proven by following a tendering procedure and awarding the contract to the lowest tenderer. However, in addition to cost, best value requires that the principles of integration, quality, partnering, innovation, performance management, and customer focus are also taken into account as well as the achievement of corporate objectives such as sustainability and social cohesion.
- 1.3 All projects should be managed in accordance with the principles of good project management. Projects **over £250,000** should be managed and delivered using best practice Project Management techniques e.g. PRINCE2. Where significant risks have been identified, they should be included in the Corporate Risk Register and addressed in accordance with the Authority's Risk Management strategy.
- 1.4 For the purpose of Section 151 of the Local Government Act 1972, the Service Director Finance and Procurement is the appointed Section 151 Officer for the Authority. The postholder is responsible for the proper administration of the Council's financial affairs and, subject to the Constitution and any resolutions of any Committee or the Full Council, may do all things necessary for the administration of the Council's financial affairs.
- 1.5 Where the Section 151 Officer considers that there is a likelihood of a significant overall overspending, or a significant overspending on a Committee budget, a report will be taken to Council, in accordance with Section 114 of the Local Government Finance Act 1988.
- 1.6 As the Council's financial and economic advisor, the Section 151 Officer will prepare a budget showing the sources of income and proposed expenditure in each financial year and will keep the Finance and Property Committee informed of the Council's overall financial performance, compared with the approved budget(s). The information required and the frequency of reporting will be determined by the Finance and Property Committee.
- 1.7 The Section 151 Officer, after consulting with the Group Manager for Legal and Democratic Services, may vary, waive or suspend any regulation. Requests to waive Financial Regulations should be submitted in accordance with the approved waiver request procedure.



- 1.8 Where reference is made in these regulations to specific officers, they may nominate other officers to act on their behalf provided that they keep appropriate up-to-date written records of the nominated officers and the limits to their delegated powers.
- 1.9 Corporate Directors are responsible for ensuring that employees in their departments are aware of, and comply with these Financial Regulations and that failure to comply may result in disciplinary action.
- 1.10 Corporate Directors must consult the Section 151 Officer on any matter which is liable to affect the finances of the Council before any provision or other commitment is incurred or before reporting to the Finance and Property Committee. The Section 151 Officer has the right to be represented at meetings with partnerships or outside bodies where matters of major financial significance are to be discussed.
- 1.11 Each Corporate Director and each Committee is responsible for the observance of Financial Regulations and Codes of Procedures, and for compliance with the decision making process defined in the Constitution.
- 1.12 The Section 151 Officer shall add any financial comments, as thought fit, to reports being submitted to Committee or Council regarding the financial consequences of any proposed action. These comments may include the sufficiency of the budget to finance the proposals being made or set out the action to be taken to make the necessary finance available. All reports will have a Section 151 Officer financial comment. These reports must be submitted to the Section 151 Officer or his/her representative, at least 5 working days before the distribution of papers.
- 1.13 If there is a conflict between the Council's Financial Regulations and other specific County Council regulations or codes of procedure, these Financial Regulations shall prevail.
- 1.14 The Freedom of Information Act 2000 requires the Council to meet standards of openness and transparency with respect to access to all of the information it holds. The Council has an Information Management Policy which should be followed. Particular issues are also addressed in section 6 and section 9 of these regulations. Further guidance is available on the intranet and in the Contracts Manual.

## **2. FINANCIAL PLANNING AND BUDGETARY CONTROL**

- 2.1 In February of each year, Full Council will approve an annual revenue budget, capital programme, Medium Term Financial Strategy and Council Tax Precept.
- 2.2 Each Member of the Council must be provided with a copy of the budget proposals together with a statement by the Section 151 Officer of the effect on the Council's finances and the precept to be levied at least seven days before the Meeting of the Full Council at which such matters will be considered.

- 2.3 It is the responsibility of all Committees, in consultation with the relevant Corporate Directors, to monitor and control the budgets approved for the year.
- 2.4 Amounts provided under each heading of the approved annual revenue estimates must not be diverted to other purposes except as allowed by Financial Regulations.
- 2.5 The inclusion of items in the approved revenue estimates constitutes authority to incur expenditure, subject to the regulations for procurement of Goods, Services and Works, except where the Council, Committee or Financial Regulations of the Council has placed a restriction on any item. Where items cannot be identified from the approved revenue estimates, authority for expenditure on those items must be obtained from the appropriate decision making body within the Council depending on the amount.
- 2.6 Where external funding is available to cover additional revenue expenditure, Corporate Directors must obtain the approval of Finance and Property Committee for the additional expenditure.
- 2.7 Where expenditure is required on items not included within the approved budget, and which cannot be funded within the regulations for virement Corporate Directors must obtain approval from the Finance and Property Committee.
- 2.8 Capital expenditure is not authorised until the necessary regulations have been complied with and a business case accepted by Finance and Property Committee and/or Policy Committee.
- 2.9 Where a Committee wishes to take a course of action which has financial implications contrary to the advice provided by the Section 151 Officer, the Section 151 Officer may submit a report to this effect to Policy Committee.
- 2.10 The Section 151 Officer must submit a report to the Full Council on each year's final accounts as soon as practicable, and in accordance with the statutory Accounts and Audit Regulations.

### **3. REVENUE EXPENDITURE**

#### **3.1 Preparation of Revenue Budgets**

- 3.1.1 Revenue budgets must be prepared within the Budget and Policy Framework and the resource allocation limits prescribed by the Council.
- 3.1.2 Detailed annual revenue budgets must be prepared in accordance with all instructions on budgeting issued by the Section 151 Officer. It is the responsibility of Corporate Directors to ensure that detailed budget preparation takes place, that the amounts included are realistic, and that there has been correct application of budget conventions and procedures for their service.

- 3.1.3 Where there is uncertainty about the proper approach to be adopted in preparing a budget, guidance should be sought from the Section 151 Officer.
- 3.1.4 The Section 151 Officer will, during the year, seek approval from Finance and Property Committee for allocations from the General Contingency approved by Council.
- 3.1.5 Where external income arises from a set scale of charges, fees etc., the Corporate Director must review the level of fees at least once a year in consultation with the Section 151 Officer. Revised fees must be agreed by the relevant Committee.

### **3.2 Control of Revenue Budget**

- 3.2.1 Corporate Directors and Committees are responsible for controlling expenditure within approved budgets. To assist them with this, virement of budget provision from one budget head to another may be permitted.
- 3.2.2 Variation between any budget head and actual expenditure or income which cannot be covered within the rules for virement must be reported to the Finance and Property Committee after consultation with the Department's Corporate Director and the Section 151 Officer.
- 3.2.3 Where new policies or significant variations to existing policies or practices are proposed, a report must be presented to Policy Committee providing details of the financial implications of the proposed policies for the current year and two further years.
- 3.2.4 A Corporate Director's authority to incur expenditure, for which provision has been made in the detailed annual revenue budget and which is in accordance with Council policies, is subject to the procurement regulations and the conditions below.

### **3.3 Special Items**

#### **1. Use of Consultants, Individuals as Contractors and Special Advisors**

- 3.3.1.1 Unless prior approval has been obtained from Policy Committee to engage consultants (e.g. as part of an approved capital programme), the following regulations apply in addition to the normal procurement rules:-
- 3.3.1.2 Corporate Directors may employ consultants, individuals as contractors or specialist advisors provided that there is sufficient budget provision and an annual report is made to the Policy Committee on the use of this discretion.
- 3.3.1.3 If the estimated value of the contract is **over £50,000** prior approval must be obtained from the Chief Executive and

the Section 151 Officer. Requests for approval must be submitted on the approved form. (NB Regardless of value, all consultants must be procured in accordance with procurement procedures.)

3.3.1.4 Where contracts need to be extended and the total value of the whole contract will **exceed £50,000**, further permission must be obtained from the Chief Executive and the Section 151 Officer before the contract is extended.

3.3.1.5 When employing individuals as consultants, contractors or specialist advisors, Corporate Directors must determine whether the nature of their employment is 'Employed' or 'Self Employed' as set out in the guidance note IR56 issued by HM Revenue and Customs. The Authority has produced some guidance and a form to help with this assessment. If a Consultant or Contractor is deemed to be 'Employed' the Corporate Director must arrange for the Consultant or Contractor to be paid through the Authority's payroll.

## 2. Leases

3.3.1.6 All leases or credit arrangements **over £6,000** which are not for Land and Buildings must be approved by the Section 151 Officer before they are entered into.

3.3.1.7 For leases of Land and Buildings, separate regulations must be followed.

## 3. Grants to External Bodies

3.3.3.1 Grant aid as defined in the grant aid strategy must be approved by the Grant Aid Sub-Committee.

## 4. Loans to External Bodies

3.3.1.8 All proposals for loans to individuals or outside bodies should be accompanied by an appropriate risk assessment. Loans to individuals or outside bodies must be approved by Policy Committee.

## 5. State Aid

3.3.1.9 State Aid is financial aid or other advantage to business from a Member State of the EU which meets all the criteria in Article 87(1) of the EC Treaty. State Aid, which could distort competition and affect trade by favouring certain undertakings or the production of certain goods, is incompatible with the common market unless there is

special provision for it within the EC Treaty (usually through certain types of block exemption).

3.3.1.10 There are four characteristics of State Aid:

3.3.1.10.1 **it is granted through the State or through State resources** (including public funds administered through Local Authorities);

3.3.1.10.2 **it favours certain undertakings or production of certain goods** – ie by conferring an advantage to an entity engaged in economic activity (which can include voluntary and non profit making public or private bodies when they engage in activities which have commercial competitors);

3.3.1.10.3 **it distorts or threatens to distort competition** by actually or potentially strengthening the position of the recipient in relation to competitors. Virtually all selective aid will have this potential regardless of the scale of the potential distortion;

3.3.1.10.4 **it affects trade between Member States.** Most products or services are traded between Member States, therefore, almost any selective aid for business activities is capable of affecting trade between States, even if the business itself does not trade directly with Member States.

3.3.1.11 State Aid can take many forms including grants, subsidies, preferential interest rates, loans with preferential terms, acquisition of land either gratuitously or on favourable terms, provision of goods or services on favourable terms, reimbursement of costs in the event of success, capital transfers and many other actions. Some forms of public private partnerships and contracts are not open to competitive tendering.

3.3.1.12 The rules on State Aid are lengthy and complex and therefore if there is any concern about activities or proposals possibly contravening these rules then specific advice on the circumstances should be sought from Legal and Democratic Services. See the state aid website.

## 3.4 Virement

3.4.1 The transfer of budget provision from one budget head to another is permitted as follows:

- a. **up to £50,000** (£100,000 within the Highways Maintenance budget) within a Committee's revenue budget - by a Corporate Director and the Section 151 Officer;
- 3.4.1.1 **up to £200,000** within a Committee's revenue budget – by the Finance and Property Committee;
- 3.4.1.2 **up to £200,000** between the revenue budgets of two or more committees - with the agreement of both or all the relevant committees and the Finance and Property Committee;
- 3.4.1.3 **over £200,000** within or between the revenue budgets of Committees - by the Finance and Property Committee.
- 3.4.2 Where the Section 151 Officer considers that any proposed virement causes a variation to existing policy, s/he may require the Corporate Director to present a report to Policy Committee setting out the reasons for the virement.
- 3.4.3 A Corporate Director may incur expenditure which is essential to meet any immediate needs created by a sudden emergency, subject to this action being reported immediately to the Chief Executive and the Section 151 Officer, and to the next Finance and Property Committee.
- 3.4.4 When a sudden emergency arises, Corporate Directors must keep a separate record of the essential expenditure incurred in connection with the emergency until advised by the Section 151 Officer that separate records are no longer required.

### **3.5 Monitoring of the Revenue Budget**

- 3.5.1 Corporate Directors must ensure that budgets are monitored via the Council's Business Management System. Corporate Directors will report at least quarterly to the relevant Committee and Finance and Property Committee regarding the actual income and expenditure compared with the budget. Explanations of significant variations must be made available to the Section 151 Officer when requested, together with proposals for avoiding any continuing budget problems.
- 3.5.2 Each Corporate Director, in conjunction with the Section 151 Officer, must prepare an annual report for the relevant Committee and Finance and Property Committee comparing actual expenditure for the year with the revenue budget. Explanations for significant variations must be provided by the Corporate Director.
- 3.5.3 The Section 151 Officer must prepare an annual report to Full Council for all budgets, comparing the actual expenditure for the year with the agreed revised estimate for the year and explanations of significant variations. Budgets may be carried forward to the following year after

consideration by Finance and Property Committee and approval by Council. Other reserves may be created from budget underspending for specific purposes, subject to approval by Finance and Property Committee.

- 3.5.4 The annual surpluses and deficits of Trading Organisations will be carried forward in an 'Earmarked Reserve'. The level of these reserves will be kept under review by the Section 151 Officer and reported annually to Finance and Property Committee.

## **4. CAPITAL EXPENDITURE AND OTHER MAJOR PROJECTS**

### **4.1 Management of Projects**

- 4.1.1 All projects will be managed using a best practice project management methodology eg PRINCE2 by suitably experienced project managers with project reviews at key milestones which meet Gateway Review standards.

### **4.2 Inclusion of schemes in the Capital Programme**

- 4.2.1 Schemes can be added to the Capital Programme by:

- 4.2.1.1 the Annual Review Process that culminates in the approval of the County Council's budget each February; or
- 4.2.1.2 decisions taken during the year on an ad-hoc basis where the schemes are fully funded from external sources; or
- 4.2.1.3 decisions taken during the year on an ad-hoc basis where additional County Council funds are required.

The processes are shown schematically in the attached decision tree.

- 4.2.2 All proposed schemes, or programmes of work, should include a business case appraisal which has been carried out before detailed design work begins, and, where appropriate, the full lifecycle costs of the investment and the impact on future budgets.

- 4.2.3 The options appraisal report should include:

- 4.2.3.1 how each scheme, or programme of work, relates to the approved Council objectives and what other options have been considered, what consultation has been undertaken and what the anticipated outcomes are;
- 4.2.3.2 the estimated capital costs;
- 4.2.3.3 the estimated revenue costs for each of the first three years of the scheme or programme of work, including the eventual revenue costs for a full year of operating the scheme or programme of work.

- 4.2.4 All proposals for capital expenditure that require additional resources to be found by the County Council should be considered initially by the Corporate Asset Management Group (CAMG) who will advise on the relative priority of future capital schemes, in accordance with the agreed prioritisation criteria within the Capital Strategy. Approval must then be obtained as follows:
- 4.2.4.1 for schemes being considered through the Annual Review process, CAMG will make recommendations to the Member Reference Group who, in turn, will make recommendations to the Corporate Leadership Team (CLT). CLT will then make their recommendations to Policy Committee for approval;
  - 4.2.4.2 for schemes arising during the budget year on an ad-hoc basis, CAMG will consider and advise the Member Reference Group who, in turn, will advise and seek approval from Policy Committee.
- 4.2.5 The outcome of the Annual Review process is the capital programme approved by Council which includes the schemes approved for the forthcoming financial year and the two following years.
- 4.2.6 Where proposals are made for additional schemes during the year, or for cost variations to existing schemes, decisions can be taken as follows:
- 4.2.6.1 schemes, or variation increases, **up to £250,000** by the Section 151 Officer after consultation with the Chairman of the Finance and Property Committee;
  - 4.2.6.2 schemes, or variation increases, **over £250,000 and up to £2 million** by Finance and Property Committee;
  - 4.2.6.3 schemes, or variation increases, **over £2 million** by Council.
- 4.2.7 After approvals have been obtained, Latest Estimated Cost (LEC) reports should be prepared and presented before tenders are sought.
- 4.2.8 All schemes with an estimated cost **over £7.5 million** are subject to the following additional requirements:
- 4.2.8.1 a report on alternative design proposals is taken to Finance and Property Committee;
  - 4.2.8.2 no detailed design work is undertaken prior to the report being approved.
- 4.2.9 Where major projects are being procured through a 'Private Finance Initiative' (PFI) or 'Public Private Partnership' (PPP), an options



appraisal report should be prepared and approval must be obtained from Council before bids are invited.

### 4.3 Content of Bids for Capital Expenditure

- 4.3.1 All bids for capital expenditure must be prepared by Corporate Directors in the form laid down by the Section 151 Officer.
- 4.3.2 The advice of an appropriate technical officer must always be sought before a scheme is included in any capital programme. The appropriate technical officers are shown below:

Area of Activity	Technical Officer
Building, Construction and associated works	Service Director, Transport, Property and Environment
Civil Engineering works	Corporate Director, Environment and Resources
Computer technology	Service Director, ICT
Expenditure over £100,000 relating to the management of Council Land, Building and Property	Service Director, Transport, Property and Environment
Change of use of land, buildings or property	Service Director, Transport, Property and Environment
New or replacement land, buildings or property	Service Director, Transport, Property and Environment

- 4.3.3 Construction schemes should not normally be included in the first year of a capital programme unless the following criteria have been considered and the risks evaluated:
- 4.3.3.1 purchase, lease or lease option of the land or property has been completed. In the case of transportation and land reclamation projects, a right of entry should have been obtained;
- 4.3.3.2 outline planning permission should have been obtained, where appropriate, especially if the development involves a change of use or is a new development;
- 4.3.3.3 the sources of funding, including any grants or contributions from outside organisations, have been finalised - except for land reclamation projects where grant notification is not normally received until the year of the project;
- 4.3.3.4 the service department has prepared a detailed brief for the project which has been agreed with the relevant technical officer who will carry out the design;

- 4.3.3.5 the Service Director, Transport, Property and Environment has confirmed that the proposal complies with Corporate Property Policies;
  - 4.3.3.6 a proper assessment of the time-scale required for the project has been made;
  - 4.3.3.7 where existing property is affected by the proposed development, the service department has agreed proposals for dealing with staff or clients who might be temporarily displaced during construction; and
  - 4.3.3.8 relevant sustainability issues.
- 4.3.4 The capital programme for each Committee must be prepared within the block allocation and individual scheme approvals approved by Finance and Property Committee. All costs should be at estimated out-turn prices, unless otherwise determined by the Section 151 Officer.
- 4.3.5 The revenue costs of all schemes in the capital programme must be assessed each year. The staffing, lifecycle maintenance and other running costs must be included in the revenue budget. The financing costs for expenditure funded by borrowing or leasing will be calculated by the Section 151 Officer and included within the overall revenue budget.

#### 4.4 Feasibility Studies

- 4.4.1 The appropriate **Error! Reference source not found.****Error! Reference source not found.**technical officer can carry out preparatory work on any scheme included in the approved capital programme. The costs of this work must be charged to that scheme. If for any reason the scheme does not go ahead, then the costs of preparatory work undertaken must be charged to the revenue budget of the Committee concerned, which will need to make available sufficient budget cover for this. In practice, this means that the technical officer should not carry out preparatory work unless an undertaking has been secured for the funding of any abortive costs from the service department.
- 4.4.2 Design work must not take place on schemes which are not included within the approved capital programme unless written approval has been obtained from the Chief Executive and the Section 151 Officer.
- 4.4.3 The appropriate technical officer can carry out feasibility work on any other scheme not in the approved capital programme subject to:
- 4.4.3.1 the Corporate Director agreeing to the cost being met from its revenue budget for the year; and

- 4.4.3.2 prior approval from the Section 151 Officer has been obtained if the estimated cost of the feasibility study is **over £25,000**.

## **4.5 Reports on "Latest Estimated Costs" of Proposed Schemes**

4.5.1 Corporate Directors must take a report to Finance and Property Committee setting out the latest estimated costs of all proposed capital schemes where the capital cost is over £1 million. The report must be made after detailed design work has been completed but before tenders are invited and should contain:

4.5.1.1 Capital costs analysed into:

4.5.1.1.1 land acquisition;

4.5.1.1.2 construction costs;

4.5.1.1.3 acquisition of plant, equipment and furniture;

4.5.1.1.4 professional fees and project management costs;

4.5.1.1.5 any other relevant costs.

4.5.1.2 Revenue costs identified and analysed into:

4.5.1.2.1 staffing costs;

4.5.1.2.2 other running costs;

4.5.1.2.3 financing costs;

4.5.1.2.4 lifecycle maintenance costs.

In addition to total costs, the phasing of these costs over financial years should also be shown. If the costs exceed the existing capital programme provision for that scheme, the report must contain a statement on how these extra costs can be contained within the approved total capital programme or, if further capital funds are required, approval to increase the capital programme must be sought from the appropriate body within the Council.

4.5.2 For all schemes in the capital programme estimated to cost between £250,000 and £1 million, the Corporate Director, in conjunction with the appropriate technical officer, must submit a report on the latest estimated costs of the scheme to the Section 151 Officer and to the Finance and Property Committee.

4.5.3 Where the gross costs of an existing capital scheme exceed the approved budget, further approval for the increased costs (the capital

variation) must be obtained. The requirement to submit an LEC report remains.

#### **4.6 Budgetary approval prior to Contract Award**

Where the preferred tender exceeds the LEC or Capital Programme estimate, Corporate Directors must submit a revised LEC report and obtain all necessary approvals for the additional expenditure needed before accepting the tender.

Each Corporate Director must keep a record of the difference between accepted tenders and capital programme provisions.

The accepted tender cost becomes the figure included in the capital programme. If this gives rise to a variation in professional fees, the Section 151 Officer should be informed so that an amendment can be made to the capital programme.

The award of contracts must comply with the procedures for the procurement of Goods, Services and Works and the guidance in the Contracts Manual.

#### **4.7 Post-Project Evaluations**

4.7.1 For completed projects, post-project evaluations must be carried out by the Corporate Asset Management Group and a report submitted to Finance and Property Committee as follows:

4.7.1.1 projects **up to £5 million** - for a sample of projects selected by Corporate Asset Management Group;

4.7.1.2 projects **over £5 million** - all projects.

4.7.2 The post project evaluation should normally address the following matters:

4.7.2.1 out-turn costs vs original cost estimates and the reasons for any cost increases;

4.7.2.2 breakdown of the professional fees incurred;

4.7.2.3 actual timetable achieved vs original planned timetable and the reasons for slippage and delays;

4.7.2.4 overall project outcomes and quality of project management;

4.7.2.5 achievement of service objectives and benefits;

4.7.2.6 lessons to be learned for future projects.

- 4.7.3 Technical officers should carry out a post project review for all their projects and report to the Corporate Director and, where different, the client, regarding the achievement of projected benefits and lessons to be learned for future projects.

#### **4.8 Capital Financing**

- 4.8.1 The Section 151 Officer will make arrangements for the financing of capital expenditure in accordance with the CIPFA 'Prudential Code for Capital Finance' and the annual budget report approved by Council.
- 4.8.2 Decisions on leasing must be made by the Section 151 Officer, who will also determine whether proposed leases are 'finance leases' or 'operating leases'.

#### **4.9 Capital Loans**

- 4.9.1 All proposals for loans to individuals or outside bodies should be accompanied by an appropriate risk assessment. Loans to individuals or outside bodies for regeneration purposes must be recommended by the Economic Development Committee for approval by the Finance and Property Committee or Policy Committee.

#### **4.10 Investment in Equities**

- 4.10.1 Investment in equity stock must be recommended by the Economic Development Committee for approval by the Finance and Property Committee or Policy Committee.
- 4.10.2 These restrictions do not apply to pension fund investments.

### **5. ACCOUNTING SYSTEMS**

- 5.1 All staff must comply with accounting instructions issued from time to time by the Section 151 Officer. Accounting systems should provide information that is useful for both stewardship and management responsibilities. Any new accounting systems and retention of associated records, or records of assets and liabilities and any changes to such systems must be approved by the Section 151 Officer.
- 5.2 The Council accepts the CIPFA Accounting Codes of Practice and the supporting guidance statements. Standards of accounting must accord with these codes of best practice.
- 5.3 Corporate Directors and Committees are responsible for ensuring that all opportunities to obtain Government grants and other external funding towards the expenditure of their Department are exploited.
- 5.4 All interim or final claims in respect of Government grant and reimbursements or contributions from outside bodies, other than those recovered by Sundry Debtor accounts, must be signed by the Section 151 Officer. Corporate Directors must supply such information as the Section 151 Officer considers

necessary to enable successful claims to be made promptly to ensure a satisfactory cash flow is achieved. The Section 151 Officer will provide guidance on the information required to support grant claims.

- 5.5 Corporate Directors are responsible for ensuring that appropriate systems and procedures are in place for the proper transfer of all financial records and assets, eg stocks, stores, imprest accounts, inventories, valuables, cash, etc, when an officer ceases to be responsible for these items.
- 5.6 The accounting control systems must include:
  - 5.6.1 measures to ensure that the financial transactions of the Authority are recorded as soon as reasonably practicable and as accurately as reasonably possible;
  - 5.6.2 measures to enable the prevention and detection of inaccuracies and fraud, and the ability to reconstitute any lost records promptly and at reasonable cost;
  - 5.6.3 identification of the duties of officers dealing with financial transactions and division of responsibilities of those officers in relation to significant transactions.
- 5.7 At the end of each financial year, Corporate Directors must notify the Section 151 Officer of all outstanding expenditure relating to the previous financial year in such detail and by such date as may be required by the Section 151 Officer so that accounts can be prepared to meet statutory reporting requirements.

## **6. MANAGEMENT, RETENTION, SECURITY AND DISPOSAL OF RECORDS**

### **6.1 General**

- 6.1.1 All Nottinghamshire County Council records, whether electronic or paper-based, are subject to the Authority's Information Management Policy which establishes key principles for the management, retention, security and disposal of these records.
- 6.1.2 Corporate Directors are responsible for providing suitable storage for Departmental records and for ensuring compliance with corporate policies governing the management, retention, security and disposal of records within their Department.
- 6.1.3 All retained records must be held in a manner which allows speedy and efficient retrieval of information, having due regard for the appropriate security requirements.

### **6.2 Retention of Records**

- 6.2.1 All business records should be retained in accordance with the retention schedules contained in the Corporate Information Policy. .

6.2.2 Where uncertainty exists about individual documents or records, the nominated Departmental Information Officers should be consulted for guidance.

### **6.3 Disposal of Records**

6.3.1 All records are subject to disposal policy standards which include the need to obtain prior authorisation and to maintain a record of the disposal. Officers seeking to dispose of business records must complete a records destruction form and follow the disposal guidance contained in the Information Management Policy.

### **6.4 Projects in receipt of European Grant Aid**

6.4.1 The European Commission has strict rules governing document retention periods and the format in which documents must be kept. All supporting documents for projects in receipt of European Grant Aid must be kept for the minimum retention period, and in the format, specified by the European Programme of which the project is part. Therefore, it is essential to check with the Managing Authority for the relevant Programme to confirm both the allowable format of documents to be retained and the retention period.

6.4.2 Before any original supporting documentation is destroyed, it is essential to confirm with the Managing Authority that the retention requirements have not been extended or changed.

## **7. ASSETS**

Assets include land and buildings, stocks and stores, cash, equipment and furniture, and electronic data.

### **7.1 Stocks and Stores**

7.1.1 Corporate Directors are responsible for ensuring that appropriate systems and procedures are in place for the safe custody and physical control of the stocks and stores in their Department. They must arrange for periodic stocktaking by an independent person to ensure that all items are checked at least once per annum or at such other frequency as the Section 151 Officer may agree. Test checks should be carried out from time to time.

7.1.2 Records relating to assets and the method and frequency of stores and inventory checks will be determined by the Section 151 Officer.

7.1.3 Departments should not hold excessive stocks and Corporate Directors must ensure that a periodic review of stock turnover and stock levels of all items is undertaken and that action is taken to dispose of excessive or obsolete stocks.

7.1.4 Corporate Directors must notify the Section 151 Officer each year of the value of stock held by their Department as at 31 March and must

supply such other information relating to stocks and stores as may be required by the Section 151 Officer.

7.1.5 Discrepancies revealed at a stock taking may be adjusted by the Corporate Director provided that it is under £1,000 in aggregate. Discrepancies over £1,000 must be reported to the Section 151 Officer who may authorise the necessary adjustment or refer any item to Internal Audit.

7.1.6 Surplus stocks, stores or materials must be disposed of in accordance with the procedures below:

7.1.6.1 items estimated to realise **£500 or less** – at the Corporate Directors' discretion;

7.1.6.2 items estimated to realise **between £500 and £10,000** - competitive quotations must be sought;

7.1.6.3 items estimated to realise **more than £10,000** – an appropriate number of tenders must be obtained (and retained) to demonstrate that best value has been obtained from the sale of the assets.

## **7.2 Cash, Equipment and Furniture**

7.2.1 Corporate Directors are responsible for maintaining appropriate security for all cash, furniture and equipment etc under their control.

7.2.2 Money held at premises must be placed in a cash box which must be kept locked and put in a secure place.

7.2.3 Safes must be kept locked and the key removed. Keys to safes, strong rooms and similar locked areas are to be stored securely at all times. The loss of such keys must be reported immediately. Master keys and spare safe keys should be stored securely at a separate location.

7.2.4 Where several officers use the same safe, each officer must use a separate lockable cash box for the monies they are responsible for.

## **7.3 Protection of Private Property**

7.3.1 Where an officer assumes responsibility for moveable property belonging to a private person, s/he must ensure that a formal itemised inventory is prepared promptly, and where possible, in the presence of two officers who must sign and date the inventory to certify its accuracy. The property must be held securely.

7.3.2 All valuables such as jewellery, watches and other small articles of a similar nature and documents of title must be kept in safe custody.



- 7.3.3 All reasonable steps must be taken to return the private property to its rightful owner. Where a significant cost has been incurred by the Council in providing safe custody, the cost should be recovered before the property is returned and an official receipt provided for monies received.

## 7.4 Disposal of Assets

- 7.4.1 Where land or buildings are concerned, the Code of Procedures for the Disposal of Land and Buildings must be complied with.
- 7.4.2 Where ICT equipment is concerned, disposal must comply with the ICT disposal procedures.
- 7.4.3 Before disposing of an asset, officers should consult with the Section 151 Officer and must satisfy themselves that the asset has not been leased and cannot be economically re-used elsewhere in the Authority.
- 7.4.4 Surplus assets must be disposed of in accordance with the procedures below:
- 7.4.4.1 items estimated to realise **less than £500** – at the Corporate Directors' discretion;
  - 7.4.4.2 items estimated to realise **between £500 and £10,000** - competitive quotations must be sought;
  - 7.4.4.3 items estimated to realise **more than £10,000** - an appropriate number of tenders must be obtained (and retained) to demonstrate that best value has been obtained from the sale of the assets.
- 7.4.5 The Section 151 Officer will advise on the method of disposal to ensure that the most advantageous price is obtained. This will be subject to statutory requirements and any specific County Council policies.
- 7.4.6 Assets which have been sold may be released to the purchaser where payment has been made by cheque (covered by a valid guarantee card), debit card, credit card or by cash. Where payment is made by other means, the assets should not be released to the purchaser until the Section 151 Officer confirms that monies have been deposited in the Council's bank account.

## 7.5 Inventories

- 7.5.1 Inventories of the Council's property must be prepared and kept up-to-date by each Corporate Director.
- 7.5.2 Inventories must be in a form agreed by the Section 151 Officer and the Corporate Director must arrange for the inventory to be checked

with the physical assets at least annually and whenever an officer ceases to be the responsible officer.

- 7.5.3 An annual list of inventory items to be written-off must be submitted to the Corporate Director who may authorise the write-off of those items that have come to the end of their useful life due to fair wear and tear.
- 7.5.4 All other items for write-off must be reported by the Corporate Director to the Section 151 Officer who may authorise the write-off, inform Internal Audit and/or refer any item s/he considers appropriate to Finance and Property Committee.
- 7.5.5 The Council's property must not be removed from its usual location or used for unofficial purposes except with the express permission of the line manager.

## **8. SALARIES, WAGES AND PENSIONS**

- 8.1 The payment of salaries, wages, pensions or other emoluments will be made only by the Service Director, Human Resources and Customer Service. Each Corporate Director must notify the Service Director, Human Resources and Customer Service as soon as possible, and in the form prescribed, of all matters affecting an officer's pay. In particular this includes:
  - 8.1.1 all appointments, resignations, dismissals, suspensions, secondments and transfers;
  - 8.1.2 absences for sickness or other reason, apart from approved leave;
  - 8.1.3 changes in remuneration, other than normal increments and pay awards and agreements of general application;
  - 8.1.4 information necessary to maintain records of service for pension purposes, and other statutory requirements such as income tax and national insurance.
- 8.2 Appointments of all employees must be made in accordance with appropriate conditions of service and any approved establishments or employment procedure rules and staffing standing orders.
- 8.3 All time records or other pay input documents must be in a form prescribed or approved by the Service Director, Human Resources and Customer Service . Corporate Directors must formally nominate the officers authorised to approve pay input documents and maintain a list for reference. Officers authorised to approve pay input documents must comply with the relevant Employment Procedure Rules as set out in the Constitution.
- 8.4 Overtime claims must be submitted promptly. Where these claims are over three months in arrears they will only be paid with the approval of the Service Director, Human Resources and Customer Service.

- 8.5 No person should be paid by the Council unless they have a valid contract of service with the Council.
- 8.6 For income tax purposes, temporary staff who are paid directly by the Council, whether describing themselves as self-employed or not, shall be treated as employees unless they provide acceptable documentary evidence from HM Revenue and Customs that they may be paid without deduction of income tax and national insurance.

## 9. PROCUREMENT OF GOODS, SERVICES AND WORKS

### 9.1 General

- 9.1.1 All procurement undertaken by the Authority, of whatever value, is subject to EU rules. For the avoidance of doubt, where there is any conflict between UK and EU legislation and these regulations, UK and EU law shall prevail.
- 9.1.2 These procurement regulations are intended to ensure the following objectives are met:
- 9.1.2.1 **Probity and Openness:** Honesty, integrity and openness in all dealings and the avoidance of corruption;
  - 9.1.2.2 **Best Value:** The optimum outcome for the Authority and the residents of Nottinghamshire;
  - 9.1.2.3 **Equal Treatment of Suppliers:** Fair and equitable treatment for all potential suppliers;
  - 9.1.2.4 **Officer Protection:** Avoidance of situations which may lead to accusations of officer impropriety.
- 9.1.3 To achieve this, the Authority has developed a Corporate Procurement Strategy and these regulations are designed to support this strategy.
- 9.1.4 The procurement of goods, services and works, including the employment of consultants and specialist advisors, must comply with these regulations and the guidance provided in the Contracts Manual. The guiding principle of this Code is that Corporate Directors must, in all cases, comply with the principles of the best value legislation using a combination of tendering, partnering and other innovative procurement methods. All procurement, contracts and related matters must comply with any legislation.
- 9.1.5 Councillors and officers who have a personal or prejudicial interest in a contract, or other procurement decision, which they could influence, must ensure they comply, as appropriate, with the Code of Conduct for Members or Code of Conduct for Officers and shall not be supplied with or given access to any tender documents, contracts or

other relevant related information without the authority of the Group Manager for Legal and Democratic Services.

## **9.2 Partnerships and Procurement**

- 9.2.1 Working in partnership with external organisations is widespread across the Authority. All partnership agreements should be subject to appropriate contractual arrangements which have been approved by the Group Manager for Legal and Democratic Services.
- 9.2.2 Partnerships are established for varying reasons and can take many different forms. It is important to ensure that the reasons for entering into a partnership are clear and remain under review. Appropriate accounting and audit arrangements must be put in place and the Authority's policy guidance on partnerships and work for outside bodies should be followed.
- 9.2.3 Partners must formally acknowledge and accept their respective roles and responsibilities within the partnership before the project commences, having assessed the risks and resources required to deliver the project.
- 9.2.4 The Council may procure goods, services and works through collaborative procurement exercises or joint commissioning in partnership with other public sector organisations. Where such joint procurement takes place the guidance in this section must be followed. In addition, the authorities involved in the exercise must decide which of them is to act as the lead authority for the purposes of the particular service, supplies or works being commissioned and the procurement procedures of the lead authority must be followed in the joint tendering exercise.
- 9.2.5 Where the County Council acts as lead authority it must carefully assess the risks involved, ensure that it does not take on liabilities of other public bodies by acting as lead and must follow any procedural safeguards as advised by Legal and Democratic Services to protect the Council's position.
- 9.2.6 Goods, services and works must be procured through corporate procurement arrangements wherever they exist. Corporate Directors must contact the Corporate Procurement Unit (CPU) to enquire whether such arrangements exist before commencing a new procurement exercise. When these arrangements are used, there is no requirement for Corporate Directors to obtain further tenders or quotations.
- 9.2.7 Where a Council department provides goods, services or works of a particular kind, and can demonstrate that it provides value for money, that department must be given the opportunity to provide the required goods, services or works. If the goods, services or works are obtained from in-house sources, there is no requirement to obtain

quotations and tenders. Where external suppliers have been used to obtain goods, services or works that are available from in-house providers, the reasons for not using the in-house provider should be retained on file.

- 9.2.8 Where in-house provision for goods, services or works exists, the decision of whether or not to expose this provision to alternative procurement arrangements, in accordance with the Authority's Procurement Strategy, should be reviewed periodically.

### **9.3 Use of External Suppliers**

- 9.3.1 The Council's Corporate Procurement Unit (CPU) shall be notified in advance of all procurement exercises with an estimated value greater than £10,000 and shall advise on areas for procurement efficiency to be achieved through central procurement arrangements, including framework agreements, partnerships and collaborative procurement. Contracts may be procured using arrangements put in place by Central Purchasing Bodies (such as the Government Procurement Service or the Pro5 Organisations) provided that certain safeguards are followed to minimise the risk to the Council. Guidance can be found in the Contracts Manual.
- 9.3.2 Where goods, services or works are NOT obtained through an existing, approved framework agreement, partnership or in-house provider, the procedure to be followed is dependent on whether the requirement is for 'Supplies and Services' or 'Works' and the estimated total value of the purchase over the full duration of the order or contract.
- 9.3.3 The current thresholds and a link to the procurement rules are set out in the table below, however, valuation of contracts is not always straightforward. The legislation requires the aggregation of contracts having similar characteristics within a particular period. This applies to all Council contracts of that type which exceed the threshold even if the total amount purchased is through lots of small contracts. (NB It is the Council's total purchases that count and not just each Department's total purchases.) Large contracts must not be split up to avoid applying the rules. Further guidance on these rules is available in the Contracts Manual.
- 9.3.4 Where any procurement exercise is undertaken which is backed by or involves the expenditure of European Regional Development Funds (ERDF) or other external funding then it must comply with the procurement requirements attached to that funding from time to time.

<b>A. CONTRACTS FOR SUPPLIES AND SERVICES</b>	
<b>Estimated Total Contract Value</b>	<b>Minimum Requirements</b>
Up to £1,000	Quotations to be sought if deemed appropriate by the Corporate Director or his/her nominee. Details of the suppliers approached and prices quoted to be kept on file.
£1,001 to £10,000	Quotations must be obtained from more than one supplier. Details of the suppliers approached and prices quoted to be kept on file.
£10,001 to £25,000	Three written competitive quotations must be obtained. Details of all quotations sought and received to be kept on file.
£25,001 to £50,000	Three tenders must be invited. Details of tenders sought and received to be kept on file.
£50,001 to EU threshold* for Supplies and Services (£173,934 as at January 2012)	Five tenders must be invited. Details of all tenders sought and received to be kept on file.
Above EU threshold* for Supplies and Services	EU procurement rules must be complied with. Details of all tenders sought and received to be kept on file.
<b>B. CONTRACTS FOR WORKS</b>	
<b>Estimated Total Contract Value</b>	<b>Minimum Requirements</b>
Up to £10,000	Prices must be obtained from more than one supplier. Details of the suppliers approached and prices quoted to be kept on file.
£10,001 to £25,000	Three written competitive quotations must be obtained. Details of all quotations sought and received to be kept on file.
£25,001 to £250,000	Three tenders must be invited. Details of all tenders sought and received to be kept on file.
£250,001 to EU threshold* for Works (£ 4,348,350 as at January 2012)	Five tenders must be invited. Details of all tenders sought and received to be kept on file.
Above EU threshold* for Works	EU procurement rules must be complied with. Details of all tenders sought and received to be kept on file.

\*NB The value of EU thresholds is published by OGC at [www.ogc.gov.uk](http://www.ogc.gov.uk)  
For EU procurement thresholds, the County Council is categorised as 'Other public sector contracting authorities'.  
Further guidance can be found in the Contracts Manual.

- 9.3.5 Except in cases of emergency, no work shall be carried out or goods, materials or services ordered or consultant appointed unless there is adequate budget available.
- 9.3.6 For goods, services or works valued up to £50,000 an official order should be raised before they are ordered.

- 9.3.7 For goods, services or materials where the total value is over £50,000, no work may be commenced on site or goods ordered, until a formal contract (and a completed bond if appropriate) approved by Legal and Democratic Services, has been duly executed by the contractor and returned to the Council.
- 9.3.8 No work shall be carried out, or goods, materials or services ordered until the relevant client Corporate Director, where appropriate, has been consulted. Where the procurement is delegated or sub-contracted to an appropriate technical officer, the responsibility for complying with these procedures is assumed by that officer. All contracts must conform with any directions issued by the Group Manager for Legal and Democratic Services.
- 9.3.9 Where regular use of external contractors is envisaged, suitable framework or partnership arrangements should be established, using appropriate tendering procedures, to minimise the need to obtain quotations or tenders. The use of contractors must be in accordance with the terms of the framework agreement.
- 9.3.10 Where ICT equipment, software and services are to be purchased, separate rules must be complied with.
- 9.3.11 Where it is decided that a pilot scheme is required to test a particular product, services or works (eg due to the existence of a new funding stream or new technological developments that are best assessed through a pilot exercise) then the pilot scheme should be established in accordance with the rules on tendering.
- 9.3.12 If the specification for any tender is developed by or in conjunction with any consultant or supplier, then that consultant or supplier shall be excluded from a future tendering exercise for those services, supplies or works. It is important that no supplier has an unfair advantage over others by having an opportunity to develop the specification for the tender for which it will later be bidding. This does not prohibit the Council from openly consulting with industry to develop its specification and does not prohibit the Competitive Dialogue procedure permitted under the EU procurement rules.

#### **9.4 Use of Electronic Procurement Systems**

- 9.4.1 The use of 'e-procurement' methods, such as 'e-auctions' or 'e-tendering' and dynamic purchasing systems to obtain prices is permissible provided regulation 21 of the Public Contracts Regulations 2006 AND the Authority's procedures for e-procurement are complied with. The Authority's procedures shall be determined jointly by Legal and Democratic Services and Internal Audit.

## 9.5 Selection of Tenderers

9.5.1 Contractors should be selected in accordance with the guidance provided in the Authority's Contracts Manual.

### 6. Allowed Exceptions

9.5.1.1 There are a number of circumstances where obtaining quotations and tenders for amounts less than the EU threshold may not be possible or necessary. Subject to the EU rules and proper approval, tenders and quotations need not be sought if:

9.5.1.1.1 the work to be executed or the goods or materials to be supplied constitute the first valid extension of an existing contract, which has been procured through a best value exercise, provided that such an extension has received the necessary budget approval and does not exceed the value of the original contract or the next value threshold. Contracts must not be extended where the total value will exceed the EU threshold. ;

9.5.1.1.2 the Council is buying from a contract entered into following a proper tendering exercise by a consortium, collaboration, or similar central procurement body, of which the Council is a member and which the Council is authorised to buy from or through. Guidance on the use of Central Procurement Bodies is available in the Contracts Manual;

9.5.1.1.3 the work to be executed or the goods or materials to be supplied consist of repairs to, or parts for, existing proprietary machinery, where such repairs or parts are specific to that machinery OR upgrades to existing software packages. For upgrades to software, the Service Director, ICT should also be consulted;

9.5.1.1.4 works, supplies or services are urgently needed for the immediate protection of life or property, or to maintain the immediate functioning of a public service for which the Council is responsible. In such cases the contract must only last as long as is reasonably necessary to deal with the specific emergency;

9.5.1.1.5 the Corporate Director decides that special circumstances make it appropriate and



beneficial to negotiate with a single firm or that a single tender be invited. This will include occasions when it can be established that there is only a single source available or where the Corporate Director or his/her designate can demonstrate that best value for the Authority can be better achieved by not tendering.

- 9.5.2 Prior approval from the Section 151 Officer must be obtained for all exceptions.
- 9.5.3 Where special circumstances lead to negotiation with a single firm and the expected expenditure is over £25,000, prior approval must be also obtained from the Section 151 Officer AND the Group Manager for Legal and Democratic Services. In all cases formal approval must be sought using the approved waiver request procedure.
- 9.5.4 Corporate Directors must ensure that, for all the above exceptions, there is documented justification for the waiver request and a copy of the formal approval in the relevant project file.

## **9.6 Tender Preparation**

- 9.6.1 Tenders may be invited for submission by any means jointly approved by the Section 151 Officer and the Group Manager for Legal and Democratic Services eg by physical means such as post, courier or hand delivery) OR by electronic means such as approved e-tendering. The invitation to tender (ITT) must clearly specify the means of submission to be used for each tender and any associated rules pertaining to the submission.
- 9.6.2 All invitations to tender must specify that the Council is not bound to accept the lowest or any quotation or tender.
- 9.6.3 Where prior advertisement has not specified the award criteria, the invitation to tender must state the award criteria in objective terms together with the weighting for each of the chosen criteria. (This does not apply to the sale of property.) Further guidance on evaluation and award criteria is available in the Contracts Manual.
- 9.6.4 Subject to the EU Procurement Rules, the invitation to tender should normally include the County Council's contract terms. All invitation documents for contracts above the EU threshold must contain information for tenderers about the way the standstill period will be applied – see Contracts Manual.
- 9.6.5 All invitations to tender must include such other information or instructions as the Section 151 Officer or Group Manager for Legal and Democratic Services may require.

- 9.6.6 All instructions to tenderers must include specific instructions on the application of the Freedom of Information Act 2000 and the Human Rights Act 1998. Further guidance on these matters is available in the Contracts Manual.
- 9.6.7 Pre-Tender enquiries may be carried out prior to the issue of an invitation to tender. The purpose is to ensure that an effective Invitation to Tender is prepared, for example, where the technical specification is so complex that it cannot be drawn up without information from prospective contractors. All potential contractors must be treated equally within this process.
- 9.6.8 If post-tender negotiations are anticipated, the tender documents must state that these may take place.
- 9.6.9 The invitation to tender should specify that, where examination of tenders reveals errors which would affect the tender figure in an otherwise successful tender, the tenderer must be notified of such errors and given the opportunity to clarify and confirm or withdraw their tender.
- 9.6.10 Tenders may be evaluated on the basis of price, or a mixture of price and quality criteria. The basis on which the tender will be evaluated must be determined before tenders are invited and included as part of the invitation to tender information.
- 9.6.11 Prospective tenderers must be informed that no work may start on site or goods or materials ordered until either:
- 9.6.11.1 an official order has been issued; or
  - 9.6.11.2 a formal contract and a completed bond, has been duly executed by the contractor and returned to the Council.
- 9.6.12 If a performance bond is required, the nature and amount of the security to be given should be specified in the conditions of tender.
- 9.6.13 All tenders for the execution of works or the supply of goods or materials must be based on a clearly defined specification or bill of quantities.
- 9.6.14 All tenders shall require that, as a minimum, goods and materials used in their execution must be in accordance with relevant specifications issued by the British Standards Institute, or by the European Union, or its equivalent.
- 9.6.15 Tenders for capital works should include evaluation of the full lifecycle costs applicable to the works. This may also apply to other purchases such as ICT hardware and software where the cost of consumables or annual licences and support contracts can significantly increase costs over time.

## 9.7 Receipt and Opening of Tenders

- 9.7.1 Every invitation to tender must state that a tender will only be considered if it is submitted in accordance with the instructions provided, and received by the date and time specified in the invitation to tender. The invitation to tender must also state that tenders which do not comply fully may be rejected.
- 9.7.2 Tenders submitted electronically must comply with, and be processed in accordance with the Authority's approved electronic tendering procedures.
- 9.7.3 Tenders submitted by physical means (eg by post or courier) must arrive in a sealed, plain envelope or package with the word "Tender" and the title of the contract clearly written on each envelope or package.
- 9.7.4 Such envelopes and packages must be addressed impersonally to:
- 9.7.4.1 the appropriate Corporate Director, for tenders where the total expenditure over the duration of the contract is estimated to be **less than £100,000**; or
- 9.7.4.2 the Group Manager for Legal and Democratic Services, for tenders where the total expenditure over the duration of the contract is estimated to **£100,000 or more**.
- 9.7.5 Until the time specified for opening tenders, tender envelopes or packages received must remain in the custody of the Group Manager for Legal and Democratic Services or the appropriate Corporate Director, as the case may be. Electronic tenders must be held securely in a manner approved by the Section 151 Officer.
- 9.7.6 The opening of tenders must comply with the following requirements:
- 9.7.6.1 **Total estimated cost less than £100,000** - tenders must be opened and recorded at one time in the presence of:
- 9.7.6.1.1 the person responsible for letting the contract; and
- 9.7.6.1.2 a supervising officer, with suitable seniority, training and experience in the role and responsibilities of a supervising officer, who must not have any direct involvement in the administration of the contract to be awarded.
- 9.7.6.2 **Total estimated cost £100,000 or more** - tenders must be opened and recorded at one time in the presence of:
- 9.7.6.2.1 a representative of the Group Manager for Legal and Democratic Services;

- 9.7.6.2.2 a representative from the appropriate department;
  - 9.7.6.2.3 a supervising officer of senior officer grade or above, provided by the Group Manager for Legal and Democratic Services or the Section 151 Officer.
- 9.7.7 A formal record of all tenders received for each contract must be retained and must include:
  - 9.7.7.1 description of the contract being let;
  - 9.7.7.2 the date and time set for receipt of tenders;
  - 9.7.7.3 the date and time tenders were opened;
  - 9.7.7.4 the supervising officer and other officers present;

And for each tender:

  - 9.7.7.5 the tenderer's name;
  - 9.7.7.6 the date received;
  - 9.7.7.7 the tendered value (where applicable);
  - 9.7.7.8 details of any noteworthy events (eg tender excluded with reasons).
- 9.7.8 The procedures to be followed when opening tenders will be determined by the Group Manager for Legal and Democratic Services and the Section 151 Officer. These procedures must include provision for dealing with late tenders and other complications that may arise – see the Guidance for Supervising Officers.

## **9.8 Clarification of Tenders**

- 9.8.1 If the examination of tenders and supporting documentation reveals errors, discrepancies or ambiguities which would affect an otherwise successful tender, such errors or discrepancies must be dealt with in accordance with the procedures set out in the invitation to tender.
- 9.8.2 Where the procedure for dealing with errors or discrepancies is not clearly specified by the invitation to tender, the tender must be referred to the Group Manager for Legal and Democratic Services and the Section 151 Officer for a decision on the appropriate action to be taken.
- 9.8.3 Under no circumstances must the clarification process be used to attempt to seek an adjustment of prices or other changes to the specification tendered. Nor must prices or other confidential

information from any tender be divulged to other bidders, or individuals not properly connected with the evaluation of tenders.

- 9.8.4 Care should be taken to check that tenders submitted contain realistic prices and are not abnormally low. Where tenders are received that appear to be abnormally low they may be rejected but only if certain steps are followed (see Regulation 30(6) of Public Contracts Regulations 2006).

## **9.9 Post-Tender Negotiations**

- 9.9.1 The following rules only apply to tenders under the EU threshold. Where EU procurement regulations apply, negotiations may only be conducted in accordance with EU regulations after consultation with the Group Manager for Legal and Democratic Services and Section 151 Officer.
- 9.9.2 Post-tender negotiation constitutes discussion with tenderers after the submission of a tender, but before the award of the contract, including negotiations following the receipt of non-compliant bids. The purpose of post-tender discussion may be to obtain an adjustment to the price, delivery or content of the contract.
- 9.9.3 Post-tender negotiations may only be entered into if advanced notice is included in the tender documents.
- 9.9.4 The relevant Corporate Director must provide written approval before post tender negotiations are entered into.
- 9.9.5 Negotiations should be conducted by a team of at least three senior officers, one of whom must be from an independent division. A lead officer must be appointed with responsibility for ensuring that these procedures are adhered to. The team must observe the highest standards of integrity and fairness.
- 9.9.6 Negotiations must be conducted with all tenderers to ensure equality of treatment and opportunity, unless there are clear and objectively justifiable reasons for excluding one or more of them. All negotiations must be recorded and retained on file. In case of doubt, the lead officer should seek advice from the Group Manager for Legal and Democratic Services.
- 9.9.7 Comprehensive, written records of all negotiations must be retained to ensure that the requirements for accountability are met. The records must contain details of the officers involved, the name of the tenderer(s), reasons for entering negotiation and any exclusions from the negotiation, time, date, manner (eg meeting, email, telephone etc) and details of discussions and agreements reached. The record must be signed by the officers involved to confirm its accuracy.

- 9.9.8 Agreements reached during negotiations must be incorporated into the contract.

## 9.10 Acceptance of Tenders

- 9.10.1 Subject to the relevant requirements a tender may be accepted as the winning tender by the appropriate Corporate Director using a form of acceptance letter approved by Legal and Democratic Services. Notification of acceptance must also be provided to the Corporate Procurement Unit giving the details they need to maintain their Contracts Database.
- 9.10.2 For capital contracts, where the winning tender exceeds the figure in the latest estimated cost (LEC) report, the following requirements apply:
- 9.10.2.1 where the excess is over 20% of the LEC, the Corporate Director must reappraise the project to confirm it is still viable and must inform the Section 151 Officer about the reappraisal and the proposed methods of financing the additional cost. The Section 151 Officer may submit a report to Finance and Property Committee if considered necessary;
- 9.10.2.2 approval for the additional funds required to proceed with the scheme must be obtained by the Corporate Director submitting a revised LEC report and obtaining all necessary approvals for the additional expenditure needed before accepting the tender.
- 9.10.3 Where the tender sum **exceeds £2 million** a tender must not be accepted until the Section 151 Officer has been consulted and approved it.
- 9.10.4 The successful tender(s) will be selected by applying the evaluation criteria to each bid received in accordance with the evaluation scheme set out in the invitation to tender (ITT). The selection will be either on the basis of the Most Economically Advantageous Tender to the Council or the lowest price offered. In most cases the Most Economically Advantageous Tender criteria will be applied by considering both price and relevant quality factors. Only in relatively few cases will price alone be capable of meeting the Council's duty to secure best value. Further guidance on tender evaluation is given in the Contracts Manual.
- 9.10.5 Subject to the requirement for a standstill period, all tenderers must be notified of the result of the procurement as soon as possible after the award decision. The notification must contain:
- 9.10.5.1 the award criteria;

- 9.10.5.2 where appropriate, the tenderer's score;
  - 9.10.5.3 where appropriate, the winning tenderer's score;
  - 9.10.5.4 the name of the winning tenderer.
- 9.10.6 Where a tenderer requests information on how the award decision was reached by midnight of the second working day of the standstill period (called a request for an "Accelerated Debrief") this information must be provided at least 3 days before the end of the standstill period or if necessary the standstill period must be extended accordingly. In all other cases detailed information must be provided within 15 calendar days of the request. (See also debriefing guidance in the Contracts manual.)
- 9.10.7 Within 48 days of awarding an EU contract, a Contract Award Notice, in the prescribed form, must be sent to the Official Journal of the European Union (OJEU).

## **9.11 Contracts and Orders**

- 9.11.1 Except in cases of emergency no contract may be awarded, or order raised, unless the expenditure has been included in approved estimates or in capital or revenue accounts, or has been otherwise approved by, or on behalf of, the Council.
- 9.11.2 For contracts above the EU threshold, there must be a minimum standstill period of at least 10 calendar days between communicating the award decision to all tenderers and contract conclusion. This does not apply to procurement outside the full scope of EU procurement directives or where single tendering takes place under the extreme urgency provision of the negotiated process. (See guidance provided in the Contracts Manual.)
- 9.11.3 A 10 day standstill period is required before awarding a contract after a stand-alone e-auction is closed (ie an e-auction which is run outside a framework agreement) or at the end of an e-auction run within a Dynamic Purchasing System. E-auctions held within framework agreements are for specific call-offs so they do not need a standstill period. For e-auctions outside of a framework agreement the terms and conditions of contract will need to be amended prior to the e-auction to ensure that the contract is not automatically formed when the final bid is accepted, to ensure compliance with UK and EU legislation.
- 9.11.4 All contracts for construction and maintenance work must be executed as Deeds under Seal along with any other contracts or agreements as may be specified from time to time by the Group Manager for Legal and Democratic Services.

- 9.11.5 Other orders and contracts must, as a minimum, be signed in accordance with the table below. (NB Officers authorised to sign higher value contracts may also sign the lower value orders and contracts):

Estimated Value	1st Signatory	2nd Signatory
Under £50,000	Budget Holder*	n/a
£50,000 - £250,000	Budget Holder	Officer of equal or senior status to the Budget Holder
£250,001 - £1m	Budget Holder	3rd tier officer or above
Over £1m	must be executed as a deed under seal	

\* For orders under £50,000, the budget holder may set up a formal list of officers authorised to sign orders against his/her budget. This list must specify the value limit of the delegated authority for each officer.

NB Where there is no relevant budget holder for an order or contract (eg where items are procured corporately on behalf of all Departments) the Budget Holder role may be undertaken by an appropriately authorised officer within the Corporate Procurement Unit.

- 9.11.6 All tender and contract documents and orders must be in a form drawn up or approved by the Group Manager for Legal and Democratic Services and Group Manager Procurement.
- 9.11.7 Corporate Directors are responsible for the control of all official orders issued from their Department. Order forms should be standardised wherever possible and approved by Legal and Democratic Services every three years to confirm that the terms and conditions in use are appropriate.
- 9.11.8 Any contract in which the Council provides an indemnity or guarantee must have prior approval from the Group Manager for Legal and Democratic Services.
- 9.11.9 Official orders are not required for metered supplies of utility services once a contract is in place; for periodic payments such as rents and rates; for petty cash purchases or for other exceptions approved by the Section 151 Officer.

## 9.12 Contract Provisions

- 9.12.1 Contracts for the execution of work or for the supply of goods or materials by a particular date, or series of dates, must provide for liquidated and ascertained damages, unless deemed unnecessary by the appropriate technical officer after consultation with Group Manager for Legal and Democratic Services. The amount to be specified in each such contract will be determined by the appropriate technical officer in consultation with the Group Manager for Legal and Democratic Services.



- 9.12.2 Security in the form of a bond is required for the due performance of a contract, where:
- 9.12.2.1 the total value of the contract **exceeds £1 million**; and
  - 9.12.2.2 the contract is for the execution of work or for the supply of goods or services by a particular date or series of dates.
- 9.12.3 The Corporate Director or appropriate technical officer may decide that a bond is required below £1 million if the Authority is at particular risk. This may arise where the contractor concerned has a number of other contracts with the Authority which in aggregate exceed £1 million or if the contract period is particularly long or if the contract is particularly complex.
- 9.12.4 Where a bond is required, the Corporate Director or appropriate technical officer, in consultation with the Group Manager for Legal and Democratic Services and the Section 151 Officer, must specify, as a provisional item in the conditions of tender, the nature and amount of the security to be given. The security must be in a form, and be obtained from an institution, approved by the Section 151 Officer.
- 9.12.5 All construction and maintenance contracts must provide for a payment retention to be withheld for an appropriate period to allow for the rectification of faults and defects. The retention should normally be 5% of the contract sum but technical officers may vary this rate if they consider it appropriate to do so. Justification for using a different retention rate must be retained on file.
- 9.12.6 The requirement for bonds and retentions does not apply when the Corporate Director or appropriate technical officer concerned is of the opinion that such security is unnecessary after consultation with the Group Manager for Legal and Democratic Services and the Section 151 Officer.
- 9.12.7 On satisfactory completion of the work, the release of any security must be authorised by the Corporate Director or appropriate technical officer in consultation with the Section 151 Officer.
- 9.12.8 All contracts for the execution of works or the supply of goods or materials must be based on a clearly defined specification or bill of quantities.
- 9.12.9 All contracts must require that, as a minimum, goods and materials used in their execution will be in accordance with relevant specifications issued by the British Standards Institute, or the European Union or its equivalent.

## **9.13 Retention of Records and Information on Contracts and Tenders**

- 9.13.1 There are some specific issues to consider in respect of information management where contracts and tenders are concerned.
- 9.13.2 There is a general presumption in favour of disclosure of information and information can and should only be withheld if certain limited exceptions are met. Careful consideration of the issues will be required in accordance with the Council's Information Management Policy.
- 9.13.3 The most relevant exceptions in the context of procurement are:
  - 9.13.3.1 information provided in confidence (where the Council is contractually bound not to disclose certain information and to do so would be liable for breach of contract). Care should, therefore, be taken not to enter into blanket confidentiality clauses in contracts or tender documents;
  - 9.13.3.2 the public interest test (whereby the respective public interests in disclosure versus non-disclosure are weighed);
  - 9.13.3.3 commercial interest (such as trade secrets of information genuinely unique to a bidder or contractor which, if revealed, is likely to cause real or significant harm to that trade or business);
  - 9.13.3.4 timing (very often in a commercial environment the timing of any disclosure of information held will be critical. For example, information submitted during a tender process is more likely to be commercially sensitive whilst the tender process is ongoing compared to after the contract has been awarded, although some information may remain commercially confidential throughout the contract).
- 9.13.4 Due to the particular risks involved the following safeguards should be followed:
  - 9.13.4.1 all tender documents must make reference to the Council's statutory duty in respect of Freedom of Information (FOI) and the potential requirement to disclose information submitted unless the limited exceptions are satisfied;
  - 9.13.4.2 rules to be followed when information requests are received should be set out in the contract (especially larger more complex contracts);
  - 9.13.4.3 consultation with affected bidders is advisable before disclosing information, although ultimately the decision on whether or not to release any information held is a matter for the Council alone.

- 9.13.5 Guidance on FOI and the Council's Information Management Policy is available on the Council's Intranet site. Detailed guidance about FOI and procurement is available on the OGC website, from the Information Commissioner's website, in the Contracts Manual and from Legal and Democratic Services.

#### **9.14 Contract Payments**

- 9.14.1 Where contracts provide for payment to be made by instalments, the appropriate Corporate Director must maintain a record of the payments made on the project file. The record(s) must show the state of account on each contract between the Council and the contractor together with any other payments and the related professional fees.
- 9.14.2 Payments to contractors on account of such contracts must be made only on provision of a certificate showing the total amount of contract, the value of the work executed to date, retention monies, the amount paid to date and the amount now certified. These certificates should be issued by the appropriate Corporate Director or the Consultant responsible for the contract.
- 9.14.3 The approved sum payable to the contractor is the tender sum as accepted under the procedure plus such additional sums due under the contract as have also been properly approved.
- 9.14.4 Where certificates are submitted for amounts which exceed the approved sum, the Section 151 Officer only has authority to pay such certificates where the amounts can be justified and it is in the best interest of the Council to do so.
- 9.14.5 As soon as it becomes apparent that the approved sum will be exceeded, a report must be presented to the Section 151 Officer, who may also require a report to be submitted to the Finance and Property Committee.
- 9.14.6 In respect of variable price contracts, such as PFI or PPP contracts which have complex variation procedures, the appropriate Corporate Director must periodically review the cost and report to the Section 151 Officer if the contract sum is likely to be exceeded. These reports must be made whenever significant increases are identified and at least every six months up to completion of the contract.

#### **9.15 Contract Administration**

- 9.15.1 Corporate Directors or the appropriate technical officers must provide written guidelines on the minimum standards of record keeping required for supervising contracts.
- 9.15.2 Claims from contractors regarding matters which are not clearly within the terms of the contract must be referred to the Group Manager for

Legal and Democratic Services for consideration of the Council's legal liability as soon as they are notified to the Council. Where the Group Manager for Legal and Democratic Services considers it necessary, these claims must also be referred to the Section 151 Officer for financial consideration before a settlement is reached.

- 9.15.3 Valid claims for loss and expense arising from delays and disruption must be notified to the Group Manager for Legal and Democratic Services where they are likely to exceed £100,000 or where there is a possibility of legal proceedings, including arbitration or alternative dispute resolution procedures provided by the contract.
- 9.15.4 Liquidated and ascertained damages, where allowed for, must be applied in respect of contracts which are not completed within the original contract period together with any extensions of time granted in accordance with the contract unless the Section 151 Officer and the Group Manager for Legal and Democratic Services agree otherwise.

## **9.16 Final Accounts**

- 9.16.1 Final accounts for building and constructional works carried out under formal contract must be reported to the relevant Committee by the appropriate Corporate Director, if required by the Section 151 Officer.
- 9.16.2 The Section 151 Officer shall, where considered necessary, examine the contract final accounts and is entitled to make all such enquiries and receive such information and explanations as may be required to confirm the completeness and accuracy of the accounts.

## **9.17 Administration of Contracts by Consultants**

- 9.17.1 Where a consultant (eg an architect, engineer, surveyor or other consultant) who is not an employee of the Council, is engaged to be responsible to the Council for the administration of a contract on its behalf, the consultant must:
  - 9.17.1.1 be notified of, and comply with, the Council's Financial Regulations as would a Corporate Director;
  - 9.17.1.2 be notified of, and comply with, the Code of Conduct for Officers;
  - 9.17.1.3 retain all relevant records regarding the contract for a period specified by the responsible Corporate Director;
  - 9.17.1.4 allow access to contract records and documentation upon request from the responsible Corporate Director or the Section 151 Officer; and
  - 9.17.1.5 hand over the appropriate "as-built" drawings promptly together with all project and contract documentation to the

Council, and in any case within six months of completion of the works.

## **10. PAYMENT FOR GOODS, SERVICES AND WORKS**

- 10.1 Before authorising an official purchase invoice, or any process that may lead to a payment, officers must:
  - 10.1.1 ensure they are authorised to process the payment;
  - 10.1.2 satisfy themselves that the goods/services/works are a proper charge on the funds under their control;
  - 10.1.3 satisfy themselves that the goods/services/works have been received, conform in all respects with the official order and are acceptable in every way;
  - 10.1.4 ensure that amounts are correct and include all discounts due;
  - 10.1.5 where payment is made by purchase card, charge card or credit card, it may not be possible to be satisfied that goods/services/works have been received, conform and are acceptable, but officers must ensure compliance with the other procedures above and with the guidance for the use of purchase cards.
- 10.2 The Council's normal method of payment of monies owed is by BACS or cheque or purchase card.
- 10.3 Direct Debits must not be set up on any of the Authority's bank accounts, including imprest accounts, without the prior written approval of the Section 151 Officer.
- 10.4 Direct Debits must be cancelled promptly when the related goods or services are no longer being received. All Direct Debits must be reviewed annually to confirm they are still appropriate.
- 10.5 In addition to the responsibilities set out in Financial Regulations, an officer initiating payment should also ensure that the account has not previously been passed for payment and that it is coded to the correct accountancy code for which prior approval has been obtained from the budget holder.
- 10.6 The duties of ordering, receiving goods and certifying invoices for payment must not be performed by the same officer without prior agreement of the Section 151 Officer. Where electronic procurement systems have been approved, these systems may allow single officers to do this, provided that they have suitable security protocols to the satisfaction of the Section 151 Officer.
- 10.7 On no account can VAT invoices be amended. A credit note or replacement invoice must be obtained from the supplier.
- 10.8 Invoices must not be made out by officers of the Council except in the case of recurring or other items, eg rent where no invoice is normally receivable, when

a special form of internal invoice may be used. An officer must not add any additional item or items to an invoice received by the County Council.

- 10.9 The Section 151 Officer may carry out additional checks on high value payments as thought necessary.

## **11. INCOME, BANKING AND IMPREST ACCOUNTS**

### **11.1 Income and Receipts**

- 11.1.1 To comply with anti money-laundering regulations, the Authority has nominated the Section 151 Officer as its anti money-laundering officer and introduced an anti money-laundering policy and an anti money-laundering guidance note. Corporate Directors must ensure compliance with this policy.
- 11.1.2 Cash payments of more than £10,000 must not be accepted for a single transaction without the formal approval of the Section 151 Officer.
- 11.1.3 The following requirements apply to all income received:
- 11.1.3.1 all income must be recorded and accounted for immediately it is received. Where appropriate, an official receipt must be provided;
  - 11.1.3.2 the transfer of money from one employee to another must be properly recorded and acknowledged;
  - 11.1.3.3 income must be banked intact and not used to finance expenditure;
  - 11.1.3.4 encashment of personal cheques is forbidden;
  - 11.1.3.5 income must be held securely until suitable arrangements for banking it are made.
- 11.1.4 All official receipt books relating to the collection of income are ordered, and issued by the Section 151 Officer unless otherwise agreed with the Section 151 Officer. The issue of all such documents must be acknowledged by signature of the officer to whom the issue was made.
- 11.1.5 Where income is received by cheque, it must be cross-referenced on the bank paying-in slip to the drawer, either by receipt number or name. In addition, the reverse of each cheque must show the department, office or establishment that paid the cheque into the bank.
- 11.1.6 All monies received must be banked intact, and as promptly as possible and at least weekly.

- 11.1.7 Where there is a main collection eg school meals money, all monies must be banked, or lodged with the approved collector, on the day of the collection.
- 11.1.8 If an officer fails to comply with the above guidelines and a loss occurs, the Section 151 Officer may, where appropriate, seek restitution from the officer concerned in accordance with the Personnel Handbook.
- 11.1.9 Money received by officers which is held in trust but not being official Council money must be properly recorded in a form agreed by the Section 151 Officer.
- 11.1.10 All arrangements to receive payments by Credit Card, Direct Debit, Standing Order, or other e-payment methods must be first approved by the Section 151 Officer.

## 11.2 Debtors

- 11.2.1 It is the Council's policy to recover all collectable debt owed to it in accordance with the approved payment terms. Corporate Directors are responsible for ensuring that formal invoices, in respect of the goods and/or services being supplied on credit, are raised within 10 working days of the goods and/or services being provided unless all the necessary information to raise the invoice is not available. Guidance is provided on the Council's intranet.
- 11.2.2 Sales invoices should not normally be raised to cover sums due to the County of **less than £30**. Wherever possible small sums should be collected in cash or by cheque in advance. Accounts for sums due to the Council at fixed intervals eg rents, wayleaves, etc, will be issued by the Section 151 Officer and payment should be made to the Section 151 Officer. Corporate Directors must submit sufficient information for the Section 151 Officer to undertake these duties.

## 11.3 Write-Offs

- 11.3.1 The Section 151 Officer may agree to debts of **up to £1,000** being written-off by the Corporate Director. Amounts **over £1,000** may be written-off by the Section 151 Officer after consultation with the Group Manager for Legal and Democratic Services and appropriate Corporate Directors.
- 11.3.2 A summary of all write-offs must be included in the Final Accounts report to Finance and Property Committee.
- 11.3.3 Where a sales invoice requires cancellation a credit note must be raised, complete with a cross-reference to the original sales invoice. The credit note must be duly certified on behalf of the Corporate Director.

## **11.4 Imprest Accounts**

- 11.4.1 Corporate Directors must operate imprest accounts in accordance with the guidance provided and arrangements between their department and the Section 151 Officer.
- 11.4.2 The Section 151 Officer will control the opening and closing of imprest accounts in line with overall banking arrangements at the request of the appropriate Corporate Director.
- 11.4.3 The Section 151 Officer will determine the appropriate level of the Imprest, based on the average monthly level of petty cash expenditure in the establishment concerned.
- 11.4.4 The nominated imprest holder must ensure that all transactions are recorded promptly and that monthly statements are submitted to the Section 151 Officer.
- 11.4.5 The nominated imprest holder must ensure that the imprest account is not overdrawn.
- 11.4.6 Income received on behalf of the Council must not be paid into an imprest account.
- 11.4.7 Payments from an imprest account should normally be limited to minor or urgent items of expenditure, or payments via charge cards. Each payment must be supported by a receipt which should be appended to the subsequent reimbursement claim.
- 11.4.8 All imprest accounts are subject to Council audit. The officer in charge of the account will be required to give to the Section 151 Officer a certificate as to the state of the imprest account upon request.
- 11.4.9 Where an officer responsible for an imprest account leaves the Authority, the Corporate Director concerned must notify the Section 151 Officer as soon as possible that the officer is no longer responsible for that account. On leaving the Authority or upon transfer to another post, the officer responsible must formally hand over responsibility to the new designated person.

## **11.5 Banking**

- 11.5.1 The Section 151 Officer must operate banking accounts in accordance with the bank contract approved by the Finance and Property Committee.
- 11.5.2 All bank accounts must have a title which incorporates the Authority's name and in no circumstances should a bank account be opened or operated in the name of an individual.



- 11.5.3 All payments to and from Council bank accounts must be made under the direction of the Section 151 Officer.
- 11.5.4 All cheques drawn on the Council's main bank accounts must bear the printed signature of the Section 151 Officer. Where required by the Council's bank mandate, cheques must also be countersigned by a second officer who is authorised to do so by the Section 151 Officer. A register of authorised cheque signatories should be maintained.
- 11.5.5 All payments by CHAPS must be authorised by a senior officer nominated by the Section 151 Officer.

## **12. RISK MANAGEMENT AND INSURANCE**

- 12.1 The Authority's approach to risk management is detailed in its Risk Management Strategy and the Corporate Risk Register contains the key risks facing the Authority and how these risks will be managed. Corporate Directors are responsible for ensuring that risk management is applied appropriately within their Department and for notifying the holder of the Corporate Risk Register of all appropriate risks in accordance with the Risk Management Strategy.
- 12.2 The Section 151 Officer is responsible for arranging all necessary insurance cover and for reviewing the adequacy of this cover regularly, in consultation with Corporate Directors. The Section 151 Officer will also keep Corporate Directors informed of claims experience.
- 12.3 Corporate Directors are responsible for notifying the Section 151 Officer of all material changes in insurance risks and must submit insurance claims in accordance with the arrangements made by the Section 151 Officer.
- 12.4 In the event of buildings, contents, motor vehicles etc being damaged, contact must be made with the Risk and Insurance Section as soon as practicable.
- 12.5 Where there is death or very serious injury to an employee or other person arising from County Council operations (including the use of vehicles), the Risk and Insurance Section must be contacted as soon as possible for appropriate insurance advice.
- 12.6 Under no circumstances must liability be admitted in connection with accidents involving a third party.
- 12.7 The Risk and Insurance Manager may negotiate and agree settlements on any insured loss / claim up to the individual policy excess. Above this limit, the Risk and Insurance Manager must consult the Section 151 Officer and agree settlements as appropriate, in consultation with the Authority's Insurers and Loss Adjusters. Reports detailing all significant claims settled will be submitted to the Finance and Property Committee.

## **13. TRAVEL AND SUBSISTENCE CLAIMS**

### **13.1 Travel and Subsistence**

- 13.1.1 Travel and subsistence incurred by officers in connection with their duties is covered by the Authority's Travel and Accommodation Policy set out in the Constitution.
- 13.1.2 Travel, subsistence and incidental expense claims made by officers are governed by nationally agreed terms and conditions of service. These conditions are supplemented by the Council's local conditions laid down in the Personnel Handbook. The prevailing rates of allowances are available on the intranet.
- 13.1.3 All claims for officers' expenses should be submitted monthly in a form approved by the Section 151 Officer, and be authorised by a Corporate Director, or nominee, prior to payment. VAT receipts should be provided to support all claims, including fuel purchased for private cars where mileage is claimed.
- 13.1.4 The officer certifying claims for payment must be satisfied that the journeys undertaken were legitimate and that the expenses claimed were properly and necessarily incurred. Mileage claims should be verified wherever possible. Officers are responsible for ensuring that the costs claimed are kept to a minimum without unduly reducing the efficiency of the tasks carried out.
- 13.1.5 Where claims are submitted more than six months after the expenses were incurred, the claim will only be paid with the express approval of the relevant Corporate Director, and will be reduced in accordance with the Personnel Handbook.

### **13.2 Taxation Implications**

- 13.2.1 HM Revenue and Customs regard certain travel expenses to be taxable payments and the Section 151 Officer is required to make appropriate arrangements to recover the sums due. Guidance on Taxable Benefits is available on the NCC Intranet and full details of taxation requirements are obtainable from Departmental Personnel Officers.

## **14. WORK FOR EXTERNAL BODIES**

### **14.1 General Requirements**

- 14.1.1 The Council has the power under the Local Authorities (Goods and Services) Act 1970 to undertake and tender for the work of other public bodies. Public Bodies are defined in the act or can be designated by Order of the secretary of State. Other powers introduced in the Local Government Act 2003 enable the Council to:

- 14.1.1.1 charge for discretionary services subject to certain rules; and
- 14.1.1.2 trade for a profit provided that a separate company is set up.

(See below for further details regarding these powers.)

- 14.1.2 In all cases where a Department wishes to explore the possibility of working for, or trading with, external bodies, Corporate Directors must consult with the Group Manager for Legal and Democratic Services and the Section 151 Officer.
- 14.1.3 Where work is carried out for external bodies, officers must follow the guidance for such work which is available in the Contracts Manual.
- 14.1.4 Before entering into any contract or agreement to work for, or trade with, external bodies, Corporate Directors must present a report to, and obtain prior approval from the relevant Committee.
- 14.1.5 Where it is intended to trade for a profit, Corporate Directors must prepare a sound business case, based on a genuine risk-based approach, for the proposed trading activity. The business case must be a robust commercial assessment and explain why trading through a company is desirable and will provide best value for the Council.
- 14.1.6 The Group Manager for Legal and Democratic Services and the Section 151 Officer must be informed of all contracts to supply services governed by the 1970 Act or the 2003 Act and all new contracts must be approved by the Group Manager for Legal and Democratic Services.

## **14.2 Background**

- 14.2.1 The powers for local authorities to work for, and trade with, external bodies are governed by the Local Authorities (Goods and Services) Act 1970, Local Government Act 2000 and the Local Government Act 2003.

### **a. Local Authorities (Goods and Services) Act 1970**

- 14.2.1.1.1 The Council has the power under the Local Authorities (Goods and Services) Act 1970 to undertake and tender for the work of other public bodies. Public bodies are defined in the Act or can be designated by order of the Secretary of State.
- 14.2.1.1.2 The Council has some discretion under the 1970 Act whether to charge for any work undertaken for another public body. However, as a general principle the charge for any work

should cover the estimated full cost of undertaking the work, including the direct cost eg staff time costs, travel and printing expenses and a contribution towards overheads eg office expenses and accommodation costs.

**b. Local Government Act 2003**

14.2.1.1.3 The Local Government Act 2003 provides best value authorities with new powers to trade for profit, and charge for discretionary services. This extends beyond the powers under the 1970 Act referred to above.

**14.3 Charging for Discretionary Services**

- 14.3.1 The Council is able to charge for services which it has the power to provide, but is not obliged to provide to the public, ie discretionary services.
- 14.3.2 The Council is under a duty to ensure that, taking one year with another, the charges made do not exceed the cost of providing the services (ie the provision of the service should not amount to trading for a profit). Charges can be set so that different people are charged different amounts, or are not charged for the service at all.
- 14.3.3 The person receiving the service must have agreed to receive the service and pay for it.
- 14.3.4 The power does not override any other legislation which expressly prohibits the Council from charging for a discretionary service.
- 14.3.5 Where charges are made for discretionary services arrangements should be put in place, and fully documented in a form approved by Legal and Democratic Services, to provide the recipient of the service with:
  - 14.3.5.1 the terms and conditions for the provision of the service;
  - 14.3.5.2 information about charges, including discounts and annual increases;
  - 14.3.5.3 billing and payment arrangements.
- 14.3.6 Careful consideration should also be given by the relevant department to issues such as:
  - 14.3.6.1 the risks to the Council as a whole of engaging in such activity;

- 14.3.6.2 the need to ensure appropriate skill and expertise is in place before offering to undertake work for external bodies;
- 14.3.6.3 the need to ensure that the proposals are properly costed before agreeing to supply the goods, works or services;
- 14.3.6.4 the type of warranties and/or indemnities that the external body may require from the Council regarding the quality of work/service provided (this is especially likely when tendering for work for other bodies);
- 14.3.6.5 the provision of adequate insurance arrangements to cover the Council for any liability in negligence or contract for the work undertaken;
- 14.3.6.6 due consideration being given to the impact of such arrangements on the Council's core duties, functions and obligations to prevent any adverse impact on them;
- 14.3.6.7 ensuring that the Council is not at risk from bad debts and to seek, where appropriate and possible, advance payment for goods, works or services to be supplied;
- 14.3.6.8 ensuring that no contracts for external bodies are subsidised by the Council from public funds.

#### **14.4 The power to trade**

- 14.4.1 This power allows the Council to trade in any of its ordinary functions for a commercial purpose (ie for profit) through a company.
- 14.4.2 Where it is intended to trade for profit, Corporate Directors must prepare a sound business case for the proposed activity, based on a genuine risk-based approach. The business case must be a robust commercial assessment which explains why trading through a company is desirable and will provide best value for the Council.
- 14.4.3 All work for, or trade with, external bodies for profit must be conducted through a separate incorporated company which has been formally set up for the purpose.
- 14.4.4 The approval of the County Council will need to be sought to exercise a power to trade and to set up the company. It should be noted that when the company has been established it will be a separate legal entity from the Council and consideration within the business case will be required for each of the matters set out above plus such issues as:
  - 14.4.4.1 the need to transfer staff and consideration of the Transfer of Undertakings (Protection of Employment) regulations (TUPE);

- 14.4.4.2 the impact of the trading activities of the service, as it may no longer be possible to award work directly to the company – they may have to bid for it via a tender process and may not therefore win the work which they previously provided to the Council as an in-house service;
  - 14.4.4.3 pensions implications;
  - 14.4.4.4 premises requirements;
  - 14.4.4.5 taxation implications.
- 14.4.5 More information about charging and trading, including the preparation of a business case, can be found in the Contracts Manual.

## **14.5 Pricing, Charging and Accounting Issues**

- 14.5.1 Under the 1970 Act and the 2003 Act in respect of charging for discretionary services, the Council has some discretion in terms of whether or not to charge for the services provided and how much. In the case of charging for discretionary services the Council is under a duty to secure that, taking one year with another, the income from charges does not exceed the costs of provision.
- 14.5.2 As a general principle, the charge for any work performed for an external organisation should cover the estimated full cost of undertaking the work. The full cost would include the direct cost of undertaking the work (eg based on the number of days of staff time the work is likely to take, any associated travelling expenses, printing costs etc) and a contribution towards overheads (eg office expenses, management overheads, accommodation costs etc). Any deviation from this principle must be approved by the Section 151 Officer.
- 14.5.3 Charging, accounting and monitoring arrangements should be as follows:
  - 14.5.3.1 income should be collected in accordance with the Council's Financial Regulations;
  - 14.5.3.2 invoices should be rendered promptly and normally within one month of supply or in accordance with the contractual arrangements;
  - 14.5.3.3 the income arising from the performance of work for external organisations must be identified separately within the relevant service's accounts and it should be possible to determine associated direct expenditure;
  - 14.5.3.4 appropriate arrangements should be devised to monitor resource inputs, eg if the contract price is based on

person-days, the number of person-days actually taken should be monitored;

14.5.3.5 for External Audit requirements it is important to be able to identify work carried out for external organisations separately in the Authority's accounts.

14.5.4 Corporate Directors should produce an annual report on the work carried out for external organisations for the relevant Committee, providing the information outlined in the Guidance Note to the Code of Practice on Local Authority Accounting, but without breaking the Commercial Code.

## **15. INVESTMENT AND BORROWING**

- 15.1 The Section 151 Officer is responsible for arranging the investment of Council funds and the Pension Fund in accordance with approved Council policies.
- 15.2 The Section 151 Officer is responsible for arranging the borrowing and lending of money on the best available terms taking into account present and anticipated economic conditions and projected flow of funds.
- 15.3 The Council has accepted the CIPFA Prudential Code for Capital Finance, and the Code of Treasury Management. The Section 151 Officer must report any significant variations to the Prudential Indicators, with any necessary explanations to the Finance and Property Committee as soon as practical.

## **16. LEGAL CLAIMS AND SETTLEMENTS**

- 16.1 Corporate Directors must inform the Group Manager for Legal and Democratic Services of all matters where the Council might have a legal claim against a third party and of all occasions where there is a likelihood that the Council will be sued by an outside body or individual.
- 16.2 Corporate Directors must inform the Section 151 Officer where the Council's finances might be affected and the Section 151 Officer should be involved in any resultant negotiations.
- 16.3 The Group Manager for Legal and Democratic Services, in consultation with the appropriate Corporate Director and the Section 151 Officer, have the power to settle such claims in order to avoid litigation and/or to achieve best value for the Authority.
- 16.4 Any financial settlements, including redundancy payments made in relation to the employment of any staff, must be reported on a quarterly basis to the Personnel Committee.

## **17. PROTECTING PUBLIC FUNDS AND ASSETS**

- 17.1 The Council has a responsibility to protect its public funds and assets and has developed a strategy to deter fraud and corruption whether attempted on the Council from outside or from within.

17.2 The Council is committed to the highest possible standards of openness, probity and accountability. Part of meeting that commitment is to encourage employees and others who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. To facilitate this, the Council has approved a Whistle Blowing Policy to allow these concerns to be raised in confidence and dealt with appropriately.

## **18. AUDIT**

18.1 The Section 151 Officer is responsible for arranging the continuous independent internal audit of the Council. The Internal Audit Service will be provided in accordance with its terms of reference and the CIPFA Code of Practice for Internal Audit in Local Government in the United Kingdom (2006).

18.2 Internal Audit focuses on the Authority's control environment and independently appraises the internal controls present in financial and other systems. The arrangements made by Corporate Directors to secure the economic, efficient and effective use of resources are also reviewed. Internal Audit reports are produced containing recommendations which should be responded to formally in writing. The results of Internal Audit work contribute to the Authority's Statement on Internal Control.

18.3 Internal Audit staff have the right of access to such records, assets, premises and personnel, and are entitled to receive such information and explanation, as they think necessary for the proper fulfilment of their duties.

18.4 If an irregularity occurs or is suspected, which may involve financial loss, it must be reported immediately to the Section 151 Officer who may investigate and report to the Group Manager for Legal and Democratic Services and the relevant Corporate Director. The Section 151 Officer and the Group Manager for Legal and Democratic Services will jointly determine what further action to take, in consultation with the Corporate Director and Chairman of the Finance and Property Committee.

18.5 The Internal Audit Service reports on relevant audit issues on a regular basis to the Authority's Audit Committee. Frequent liaison also occurs between Internal Audit and the Authority's External Auditors who rely upon the work of Internal Audit when forming their opinion on the Authority's key financial and other systems.

## **19. INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT)**

19.1 The Service Director, ICT is responsible for ICT services, and for advising on all ICT equipment, software and services acquired by the Council.

19.2 The acquisition, development, maintenance and use of ICT equipment, services and solutions must conform with the Council's ICT Strategy and Standards. Proposed ICT activity, which may contravene any of the ICT policies and standards, should be referred to the Service Director, ICT for prior approval. In all cases such approval must be sought using the approved ICT waiver request procedure.



- 19.3 The procurement of ICT equipment, software and services, must comply with the Procurement of Goods, Services and Works guidance within Financial Regulations.
- 19.4 All ICT equipment, software and facilities acquired by the Council must only be used in accordance with conditions and guidelines issued by the Council.
- 19.5 The development of new networked systems, or major enhancements to existing systems, should first be agreed with the Service Director, ICT, whether or not the services of the IT Division will be used.
- 19.6 Projects must demonstrate that value for money will be achieved through the application of ICT. Evidence of the justification, expected benefits and value-for-money should accompany each request for approval. The level of supporting documentation to be submitted is given below:

Project Value	Supporting Documentation
Up to £10,000	Reasoned justification and expected timescales
£10,001 up to £50,000	Above plus options appraisal and full Life-cycle costing
£50,001 up to £100,000	Options appraisal, Risk assessment, full Cost-benefit appraisal + PID
Over £100,000	Full PRINCE2 business case

- 19.7 Formal approval must be obtained for all proposed projects and purchases before expenditure is committed. Approval should be sought as follows:

Project Value	Approval Required
Up to £50,000	Service Director, ICT
Over £50,000	ICT Strategy Board

- 19.8 Projects presented to the ICT Strategy Board must follow the approved ICT governance arrangements and supporting procedures.
- 19.9 Maintenance, upgrade and replacement of central hardware, software and networks are the responsibility of the Service Director, ICT and will be undertaken in accordance with ICT standards and governance arrangements.
- 19.10 Where Departmental hardware, software, or networks need to be replaced or upgraded, Corporate Directors must consult the Service Director, ICT regarding the requirements and specifications before proceeding.
- 19.11 Where ICT equipment becomes surplus to requirements, it should be disposed of using the ICT disposal procedures. Data storage media, eg disks and tapes,

should be disposed of in accordance with the procedures for disposal of storage media.

## **19.12 IT Security Policy**

- 19.12.1 The Service Director, ICT and, where appropriate, the Group Manager for Legal and Democratic Services, and the relevant Corporate Director, are responsible for maintaining proper security and privacy of data in accordance with current legislation eg Data Protection Act 1998, Computer Misuse Act 1990, Freedom of Information Act 2000.
- 19.12.2 All users of the Council's ICT systems must comply with published ICT standards and codes of practice, including:
  - 19.12.2.1 the Council's Information Security Policy which is approved by Council; and
  - 19.12.2.2 the Information Security Standards which are published and maintained by the Service Director, ICT. The Information Security Standards incorporate guidance on legal requirements such as the Computer Misuse Act 1990 and the Data Protection Act 1998, and on codes of best practice such as the International Standard on Information Security Management (ISO 17799).
  - 19.12.2.3 the internet policy and internet code of practice;
  - 19.12.2.4 the email policy and email code of practice.
- 19.12.3 Compliance with the key principles outlined in the ICT Security Policies and Framework is mandatory, including the following:
  - 19.12.3.1 employees must access only those ICT systems and data in the prescribed manner, to which they have been granted authorisation;
  - 19.12.3.2 passwords relating to a personal user identity must never be divulged to another person;
  - 19.12.3.3 attempts to obtain unauthorised access to an ICT system may constitute a criminal offence punishable by a fine or imprisonment or both;
  - 19.12.3.4 unauthorised copying of software is forbidden and may contravene copyright legislation;
  - 19.12.3.5 use of the Internet can incur potentially serious security risks, and all guidance must be strictly observed;

19.12.3.6 the use of personal data relating to a living individual is regulated by the Data Protection Act 1998, contravention of which may lead to criminal prosecution.

19.12.4 Employees must report all suspected breaches of ICT security to the Service Director, ICT.

## **20. LAND AND BUILDINGS**

### **20.1 INTRODUCTION**

20.1.1 The Finance and Property Committee is responsible for the acquisition and disposal of land and buildings. Where the proposed acquisition of land and buildings falls outside the capital programme, such acquisition may proceed only after the additional resources required have been identified and allocated.

20.1.2 The Service Director, Transport, Property and Environment must maintain the Corporate Asset Register for all land and buildings owned by the Council and a separate record of all leased property. If acquisition is by means of a lease of 10 years or more, then the best value implications of entering into the lease must be considered.

20.1.3 Details of all transfers of land and buildings must be notified to the Section 151 Officer in order that the transactions may be properly recorded in the financial records.

### **20.2 GENERAL**

20.2.1 Councillors and officers who have a personal or prejudicial interest in the acquisition or disposal of any Council land or buildings must ensure they comply, as appropriate, with the Code of Conduct for Councillors or Code of Conduct for Officers, , and shall not be supplied with or given access to any tender documents, contracts or other information relating thereto without the authority of the Group Manager for Legal and Democratic Services.

### **20.3 DISPOSAL**

20.3.1 When disposing of its land the Council is required to obtain the best price reasonably obtainable on the open market. Every effort must therefore be made to maximise the consideration realised by the Council on the disposal of land and buildings, including any claw-back, as appropriate. These efforts will include contacting major national and local purchasers and a list of such land purchasers will be maintained by the Service Director, Transport, Property and Environment. A suitable advertisement inviting interested parties to add their names to the list will be placed annually.

20.3.2 Where the Council provides public sector support to a third party in connection with any property transaction or project involving property, this could trigger the State Aid rules. In such circumstances the

guidance set out in the 'European Commission statement on State Aid elements in sales of land and buildings by public authorities' must be taken into account when disposing of land and buildings. Further advice should be sought from Legal and Democratic Services.

Disposal must be by one of the methods outlined below:

## **7. Open Binding Tender**

- 20.3.2.1 At least 28 days before the last date for the receipt of tenders, an initial public notice must be placed in one or more of the local newspapers and, dependent on the nature of the land or buildings to be sold, in national newspapers and in such other publications as the Service Director, Transport, Property and Environment considers desirable. The notice must describe the land to be sold, invite requests for tender documents and state the date and time by which tenders are to be returned.
- 20.3.2.2 The form of tender will be settled by the Service Director, Transport, Property and Environment after consultation with the Group Manager for Legal and Democratic Services and must be capable of acceptance as a binding contract.
- 20.3.2.3 The Service Director, Transport, Property and Environment, in consultation with the Chairman of Finance and Property Committee, will evaluate tenders and determine which, if any, is to be accepted.

## **8. Limited Binding Tender**

- 20.3.2.4 At least 28 days before the last date for the receipt of tenders, selected tenderers will be issued with the appropriate form of tender.
- 20.3.2.5 The form of tender will be settled by the Service Director, Transport, Property and Environment after consultation with the Group Manager for Legal and Democratic Services and must be capable of acceptance as a binding contract.
- 20.3.2.6 The Service Director, Transport, Property and Environment, in consultation with the the Chairman of Finance and Property Committee will evaluate tenders and determine which, if any, is to be accepted.

## **9. Public Auction**

- 20.3.2.7 The Service Director, Transport, Property and Environment, in consultation with the the Chairman of Finance and Property Committee, will decide which

auctioneers are to be used. The contract and conditions of sale should be prepared by the Group Manager for Legal and Democratic Services. Any reserve price will be agreed by the Service Director, Transport, Property and Environment, in consultation with the the Chairman of Finance and Property Committee and with the chosen auctioneers.

## **10. Private Treaty Sale to One Party**

20.3.2.8 Where only one party is interested or is to be invited to submit a signed contract, the Service Director, Transport, Property and Environment, in consultation with the the Chairman of Finance and Property Committee shall take a decision after discussing the circumstances with the Group Manager for Legal and Democratic Services and the Section 151 Officer.

## **11. Open Informal Tender**

20.3.2.9 The Service Director, Transport, Property and Environment, in consultation with the the Chairman of Finance and Property Committee, will make arrangements in appropriate cases for properties to be sold by Open Informal Tender which must be preceded by public advert subject to appropriate time limits.

## **20.4 TENDERS**

- 20.4.1 The invitation, receipt, opening and evaluation of tenders should be conducted in accordance with Financial Regulations Procurement of Goods, Services and Works section and the Contracts Manual.
- 20.4.2 The Service Director, Transport, Property and Environment will make available to the Group Manager for Legal and Democratic Services and the Section 151 Officer on request a copy of the register of accepted tenders, maintained in accordance with Procurement of Goods, Services and Works section and the Contracts Manual.
- 20.4.3 All parties submitting unsuccessful tenders must be notified promptly of the outcome to their offer.

## **20.5 COMPLETION OF SALE**

20.5.1 Once a sale has been agreed a reasonable period (not exceeding six months) will be allowed for the completion, except where a longer period is agreed during the original negotiations. If completion has not taken place by the end of the agreed period the Service Director, Transport, Property and Environment should make a report to the Finance and Property Committee , recommending that either:

20.5.1.1 the period for completion be extended; or

20.5.1.2 sale proceedings should be started afresh.

20.5.2 The Group Manager for Legal and Democratic Services must be advised of all decisions to extend the completion date or to begin the sale proceedings afresh, so that they can inform all interested parties of the decision.

## **20.6 CANCELLATION**

20.6.1 Every contract for the disposal of land or property must include a clause to allow the Council to cancel the contract with the purchaser and to recover from them the amount of any loss resulting from the cancellation if:

20.6.1.1 the person, firm or company has offered or given or agreed to give to any person a gift or consideration of any kind as an inducement or reward:

20.6.1.1.1 for doing or refraining from doing or for having done or refrained from doing any action in relation to the contract or any other contract with the Council; or

20.6.1.1.2 for showing or not showing favour or disfavour to any person in relation to the contract or any other contract with the Council; or

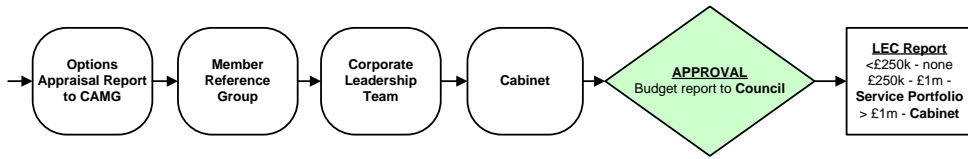
20.6.1.1.3 such acts having been done by any person employed by them or acting on their behalf (whether with or without the knowledge of the purchaser).

20.6.1.2 In relation to any contract with the Council the person, firm or company or any person employed by them or acting on their behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or any amendment of them, or shall have given any fee or reward the receipt of which is an offence under Section 117 of the Local Government Act 1972.

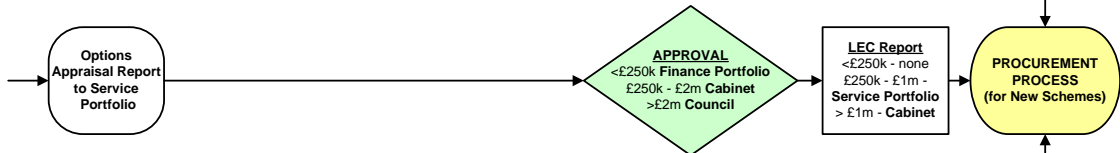
#### 4.2.1 DECISION TREE - HOW TO GET A SCHEME INTO THE CAPITAL PROGRAMME

All capital expenditure requires approval by the relevant approval body. All County Council projects requiring County Council funds should be appraised and prioritised by CAMG. Proposed expenditure on land acquisitions and capital contributions may be exempted from the CAMG process if determined by the Service Director, Finance.

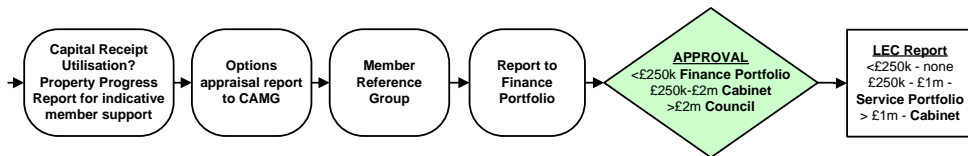
##### a. At the beginning of a Financial Year - The Annual Review Process.



##### b. During the Financial Year - the Ad-Hoc Decision route where full external funding is available.



##### c. During the Financial Year - the Ad-Hoc Decision route where County Council funding required.



**CAMG** = Corporate Asset Management Group  
**LEC** = Latest Estimate Cost

## **COUNCILLOR'S ALLOWANCES SCHEME**

1. This scheme, which may be cited as the **Nottinghamshire County Council Members' Allowances Scheme**, was approved by Nottinghamshire County Council on 17 May 2012, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003 ("the Regulations").
2. This Scheme replaces all previous Members' Allowances Schemes.
3. The Allowances mentioned in this scheme:
  - be implemented with effect from 17 May 2012;
  - be updated annually in line with the pay award for Local Authority staff. Each annual increase will be reported to the County Council for information at the earliest opportunity.
4. Any other amendments to the scheme will be determined solely by the County Council following receipt of recommendations from the Independent Remuneration Panel.
5. In this scheme:
  - "councillor" means a Member of Nottinghamshire County Council who is a councillor;
  - "year" means the 12 months ending with 31 March;
  - "statutory Co-optee" means a person (other than a councillor) who is statutorily appointed to membership of a Council committee;
6. The amounts of Basic, Special Responsibility and Statutory Co-optees' Allowances specified in this Scheme will be rounded to the nearest £3.00 in accordance with normal Local Government practice.
7. A Nottinghamshire county councillor who is in receipt of a Basic Allowance and/or Special Responsibility Allowance under this Scheme and who is under 70 years of age is eligible to join the Local Government Pension Scheme.

## **PART A – ALLOWANCES FOR COUNCILLORS**

### **BASIC ALLOWANCE**

8. Subject to paragraphs 15, 16 and 21, for each year a Basic Allowance of £12,906.00 shall be paid to each councillor.
9. Basic Allowance shall be eligible for pensionable purposes



## **SPECIAL RESPONSIBILITY ALLOWANCES**

10. Subject to paragraphs 15, 16 and 21, for each year a Special Responsibility Allowance shall be paid to those councillors who have been appointed or recognised by the Council or have been notified to the Chief Executive by their Group as holding the special responsibilities in relation to the authority that are specified in Schedule 1 to this scheme.
11. Subject to paragraphs 15, 16 and 21, the amount of each such allowance shall be the amount specified against that special responsibility in Schedule 1.
12. Special Responsibility Allowances shall be eligible for pensionable purposes.
13. No councillor may receive more than one Special Responsibility Allowance. In the event that a councillor holds more than one position for which a Special Responsibility Allowance is payable then s/he shall receive whichever of the applicable Allowances which s/he selects.

## **ATTENDANCE ALLOWANCE**

14. No attendance allowance shall be payable under this scheme, either for Council duties per se, or in respect of appointments to outside bodies.

## **RENUNCIATION**

15. A councillor may by notice in writing given to the Chief Executive elect to forego any part of his/her entitlement to an allowance under this scheme.

## **PART-YEAR ENTITLEMENTS**

16. In accordance with the requirements of the Regulations, pro-rata payments of Basic Allowance or Special Responsibility Allowances shall be payable to eligible councillors in any of the following circumstances:
  - a. if an amendment to this scheme changes the amount to which a councillor is entitled by way of a Basic Allowance or a Special Responsibility Allowance;
  - b. where the term of office of a councillor or their appointment to a role eligible for Special Responsibility Allowance begins or ends otherwise than at the beginning or end of a year.

## **LONG-TERM SICKNESS**

17. Nothing in this section overrides the provisions of the Local Government Act 1972 relating to vacation of office by failure to attend meetings throughout a period of six months.
18. In the event of long-term sickness absence full Special Responsibility Allowance shall be payable to eligible councillors, reducing to 50% after six months and ceasing after 12 months. The Council's Administration Committee may vary this in exceptional circumstances.

19. If a councillor is appointed to deputise for a councillor on long-term sickness the Administration Committee may create a deputising allowance payable after the first three months.

### **MATERNITY LEAVE AND ADOPTION LEAVE**

20. In the event of absence for maternity or adoption full Special Responsibility Allowance shall be payable to eligible councillors for a period of up to three months.

### **SUSPENSION OF ALLOWANCES**

21. The Council's Standards Committee may withdraw, in whole or in part, any of the allowances payable to councillors (including Basic, Special Responsibility, travel, subsistence and dependants' carers' allowance), where a councillor is suspended wholly or partially from his/her duties.

### **PAYMENT**

22. Payment of Basic and Special Responsibility Allowances shall be made in equal instalments. The frequency of those instalments shall be monthly in arrears.

### **TRAVEL AND SUBSISTENCE ALLOWANCES**

23. Travel and in some circumstances subsistence allowances may be claimed by councillors. The arrangements for these allowances are included in Part 4 of this scheme.

### **DEPENDANTS' CARERS' ALLOWANCES**

24. Councillors may claim up to £5.84 per hour per child for child care and up to £11.58 per hour per dependant for other dependants in respect of expenses for the care of their children or other dependants when attending meetings of the Council, its subordinate bodies or other approved duty as described in Schedule 2 to this scheme.

25. Only one payment of Dependants' Carers' Allowance may be claimed in respect of the household of each councillor.

26. Payments, which will not be payable to a member of the claimant's own household, will be made only when supported by a receipt.

27. In circumstances of particular difficulty the Administration Committee is authorised to increase the allowance payable.

### **PART B – ALLOWANCES FOR STATUTORY CO-OPTÉES**

28. The Chairman and Independent Members of the Standards Committee will receive the following allowances until July 2012:

- a. Chairman of the Standards Committee – an allowance equivalent to band 6 SRA;

- b. independent members of the Standards Committee – an allowance equivalent to band 10 SRA;

29. That any statutory co-optee receives an allowance of £582.

### **Attendance Allowance**

30. No attendance allowance shall be payable under this scheme, either for Council duties per se, or in respect of appointments to outside bodies.

### **Renunciation**

31. A Statutory Co-optee may by notice in writing given to the Chief Executive elect to forego any part of their entitlement to an allowance under this scheme.

### **Part-Year entitlements**

32. Pro-rata payments of the Statutory Co-optees Allowance shall be paid in any of the following circumstances:

- a. if an amendment to this scheme changes the amount to which a Statutory Co-optee is entitled;
- b. where the term of office of a Statutory Co-optee begins or ends otherwise than at the beginning or end of a year.

### **Payment**

33. Payment of the allowance described in paragraphs 28 to 30 shall be made in equal instalments. The frequency of those instalments shall be monthly in arrears.

### **Travel and subsistence allowances**

34. Travel and in some circumstances subsistence allowances may be claimed by Statutory Co-optees. The arrangements for those allowances are included in Part 4 of this Scheme and a description of the duties for which they may be claimed is shown at SCHEDULE 2 to this scheme.

## **PART C – ALLOWANCES FOR EDUCATION APPEAL PANEL MEMBERS**

35. For the purposes of the payment of financial loss allowance under Section 173(4) of the Local Government Act 1972, members of Education Appeal Panels are to be treated as Members of the authority.

36. Subject to providing sufficient documentary evidence identifying actual financial loss, allowances up to a maximum of £226.00 per day may be claimed by Panel Members for attendance at Panel meetings.

37. Travel allowances may be claimed by Panel Members. The arrangements for those allowances are included at Part 4 of this scheme. Lunch will be provided by the Council at no charge for Panel meetings.

## **PART D – TRAVELLING AND SUBSISTENCE**

38. This part is in accordance with Sections 174-175 and Regulations made under the Local Government Act 1972. It applies to councillors, Statutory Co-optees, members of Education Appeals Panels and other Co-opted members.
39. The provisions contained in this part are aligned with the terms and conditions for County Council employees and any future changes to employee terms and conditions will also be reflected by changes to this part.

### **TRAVELLING ALLOWANCE**

40. Travelling allowances may be claimed in respect of each occasion on which one of the persons described above carries out a duty as described in Schedule 2 to this Scheme.
41. All travel arrangements must be in accordance with the County Council's TRAVEL AND ACCOMMODATION POLICY, which is appended to this scheme.
42. If a claimant uses their own motor car or one belonging to a member of his/her family, or otherwise provided for their use and subject to the claimant having the appropriate insurance, the rate for travel, which is the same as for officers using their own vehicles on a casual basis, shall be as follows:

<b>up to 10,000 miles</b>	<b>over 10,000 miles</b>	
45.0p	25.0p	
Motor Cycles		24.0p
Cycles		20.0p
Public Transport Rate		22.6p

43. The distance claimed for mileage should be the shortest most reasonable journey by road from the point of departure to the point at which the duty is performed, and similarly from the duty point to the place of return.
44. If a claimant travels by taxi, the claim must not exceed:
- in cases of urgency or where no public transport is reasonably available, the amount of the actual fare and any reasonable gratuity actually paid;
  - in any other case, the amount of the fare for travel by appropriate public transport.
  - Any claims by members for travel costs where the Council has provided shared transport will only be payable in exceptional circumstance and subject to the agreement of the Team Manager (Democratic Services).

## **SUBSISTENCE ALLOWANCES**

45. Subsistence allowances may be claimed only in exceptional circumstances such as overnight stays on occasions on which a person described in paragraph 38 above carries out a duty as specified in Schedule 2 to this scheme.
46. When carrying out approved duties within the UK and subsistence is payable due to exceptional circumstances, the amounts shown below may be claimed.
- a. Breakfast – where leave home before 7.00 am - £4.48
  - b. Lunch – where away from base for whole of lunch period (12.00 and 2.00 pm) - £6.17
  - c. Tea – if work continues after 6.30 pm - £2.43
  - d. Evening meal – if work continues after 8.30 pm - £7.64
  - e. Tea and evening meal allowances are not normally payable on same day.
  - f. Out of pocket expenses – single night - £3.63  
– weekly rate - £14.55
47. Councillors, Statutory and other Co-optees may aggregate daily subsistence allowances.
48. Where a councillor, Statutory or other Co-optee attends a UK conference or other event which involves an overnight stay, hotel accommodation will be booked and paid for by Travel and Transport Services in accordance with the TRAVEL AND ACCOMMODATION POLICY. In exceptional circumstances where this has not been possible, the County Council will reimburse reasonable expenses, provided they are supported by receipts and subject to a maximum overnight expenditure on accommodation of £115.00 (including VAT).
49. Where a claimant attends a conference or other event which is held outside the UK, s/he may claim the amounts shown in the Council's TRAVEL AND ACCOMMODATION POLICY.

## **SPECIAL PROVISIONS**

50. In respect of full County Council meetings, councillors will have the choice of paying for the meals provided by the Council. The exercise of this option will be on an annual basis rather than for each individual County Council meeting.

## SCHEDULE 1

### SPECIAL RESPONSIBILITY ALLOWANCES

Band	% of Leader's SRA	Amount of Allowance (pa)	Current role
1	100	£31,906	<ul style="list-style-type: none"> <li>• Leader of the Council</li> </ul>
2	70	£22,331	<ul style="list-style-type: none"> <li>• Deputy Leader of the Council</li> </ul>
3	66	£21,271	<ul style="list-style-type: none"> <li>• Chairmen of Band A Committees</li> <li>• Business Manager of Majority Group</li> <li>• Leader of the main Minority Group</li> </ul>
4	50	£15,953	<ul style="list-style-type: none"> <li>• Chairman of County Council*</li> </ul>
5	40	£12,762	<ul style="list-style-type: none"> <li>• Chairman of Joint Health Committee (when chaired by a county councillor)</li> <li>• Chairman of Pensions</li> </ul>
6	33	£10,635	<ul style="list-style-type: none"> <li>• Chairmen of Band B Committees:</li> <li>• Vice-Chairmen of Band A Committees</li> <li>• Leader of smaller Minority Groups on the Council (provided the group has more than 10% of the Members of the Council)</li> </ul>
7	25	£7,975	<ul style="list-style-type: none"> <li>• Vice-Chairman of Joint Health Committee (when this position is occupied by a county councillor)</li> </ul>
8	24	£7,657	<ul style="list-style-type: none"> <li>• Vice-Chairman of the County Council*</li> <li>• Business Manager of the main Minority Group</li> </ul>
9	22	£7,021	<ul style="list-style-type: none"> <li>• Deputy Leader of the main Minority Group</li> <li>• Vice-Chairmen of Band B Committees</li> <li>• Main Minority Group Spokesmen on Band A Committees</li> </ul>
10	4	£1,276	<ul style="list-style-type: none"> <li>• Business Manager of any Minority Group consisting of more than 10% of the Members of the Council</li> <li>• Ordinary Members of the Appeals Committee when undertaking work of exceptional frequency</li> </ul>

#### Note

- \* These SRAs include an element for clothing. Sections 3(5) and 5(4) (as appropriate) of Part 1 of the Local Government Act 1972, enables the County Council to make a reasonable payment to the Chairman and Vice-Chairman to enable them to meet the expenses of their office.

## **BAND A COMMITTEES**

Adult Social Care and Health  
Children and Young People  
Community Safety  
Culture

Environment and Sustainability  
Finance and Property  
Personnel  
Transport and Highways

The Health and Wellbeing Board is a Band A Committee but it is assumed that it will always be chaired by the holder of an existing SRA

## **BAND B COMMITTEES**

Appeals  
Audit  
Early Years and Youth Services Sub  
Committee  
Economic Development

Health Scrutiny (Northern)  
Planning and Licensing  
Rights of Way

Corporate Parenting Sub-Committee is a Band B committee but it is assumed that the Vice-Chairman of the Children and Young People Committee will chair it

Grant Aid Sub-Committee is a Band B committee but it is assumed that the Deputy Leader of the Council will chair the sub-committee

It is assumed that the Administration Committee, Senior Staffing Committee, and Local Joint Resolutions Committee will always be chaired either by named members or by councillors already in receipt of a special responsibility allowance.

## **SCHEDULE 2**

### **APPROVED DUTIES (TRAVELLING AND SUBSISTENCE ALLOWANCES)**

#### **FOR COUNCILLORS**

1. Approved duties for the payment of travelling and/or subsistence allowances (the latter in exceptional circumstances only such as overnight stays) will include:
  - a. any attendance as a member or “observer” at meetings of the Council or its subordinate bodies (eg a committee, sub-committee, working party, panel, project steering group);
  - b. pre-agenda meetings of committees and sub-committees of the County Council or of any joint committee of local authorities covering the attendance of its Chair and Vice-Chair (and Opposition Spokesperson if appropriate, by invitation);
  - c. any attendance as a member of a joint committee of two or more local authorities or any sub-committee of that joint committee at a meeting of the joint committee or other body connected with the functions of that joint committee to which a Member is appointed by that joint committee;
  - d. any attendance at conferences, seminars and similar events, provided that attendance is approved in advance under the TRAVEL AND ACCOMMODATION POLICY;
  - e. rota visits to County Council establishments;
  - f. annual tour of inspection for any County Council service;
  - g. any attendance upon land or premises within the County area, for the purposes of, or in connection with, the discharge of any of the functions of the County Council, to include:
    - consultations with officers of the County Council;
    - visits to County Council premises to acquaint him/herself with conditions there;
    - visits to exhibitions relating to the functions of the County Council;
    - "surgeries" for constituents;
    - visits to sites and premises associated with actual or proposed projects of the Council;
    - visits to County Hall to deal with essential correspondence, paperwork, etc;
    - attendance by invitation at a Parish Council or Parish Meeting to participate in the discussion of a County Council function.



- h. subject to (i.) below any attendance at a meeting of any outside body, external or partnership organisation to which the Councillor has been appointed by, or on the nomination of the Council or the Administration Committee;
- i. where an outside body has its own scheme for the payment of allowances, the Member should claim his/her travelling and subsistence allowances from the other body and not from the County Council.
- j. any attendance at a meeting of a Group (under Standing Orders) which is called by the Chief Executive for the sole purpose of discussing County Council business;
- k. Group Management meetings called for the sole purpose of discussing County Council business;
- l. visits and duties outside the County area but within Great Britain for a period not exceeding 72 hours in connection with the discharge of any the Council's functions made by committee Chairmen/Spokespersons of the main Minority Group/Group officers;
- m. attendance at seminars etc to address non-political bodies at national/regional level on subjects of which they have specialist knowledge by committee Chairmen/Spokespersons of the main Minority Group;
- n. any single Member duty undertaken on behalf of the County Council:
  - in pursuance of any Standing Order requiring an Elected Member(s) to be present while tender documents are opened;
  - in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of any premises; or
  - in connection with arrangements made by the authority for the attendance of pupils at a school approved for the purposes of Section 188 (Special Schools) of the Education Act 1993;
- o. attendance by formal invitation at a county hospitality function (eg Chairman's reception, county dinner);
- p. attendance as a representative of the County Council at a local function to present an award or cheque;

but shall not include:

- disciplinary matters within a Group;
- correspondence relating to a Group's policy;
- matters relating to the internal organisation of a Group;
- selection of candidates to stand at County Council elections;

- attendance at a Governing Body meeting of a school or college;
- taking up a constituent's grievance with anybody other than the County Council (eg following up a complaint against the services of a public body, private company or another council).

### **FOR STATUTORY CO-OPTees AND OTHER CO-OPTED MEMBERS OF THE COUNCIL'S COMMITTEES AND SUB-COMMITTEES**

2. Approved duties for the payment of travelling and/or subsistence allowances (the latter in exceptional circumstances only such as overnight stays) are as follows:
  - a. any attendance at a meeting of committee or a sub-committee of which the claimant is a properly appointed member;
  - b. any visit arranged and approved in advance under the TRAVEL AND ACCOMMODATION POLICY in connection with the business of the bodies shown in a above (including conferences, seminars, training events, tours or inspection, rota visits).

### **FOR MEMBERS OF EDUCATION APPEALS PANELS**

3. Members of Education Appeals Panels may claim travelling in respect of meetings of Panels.

### **FOREIGN TRAVEL**

4. Councillors and Statutory or other Co-opted Members of committees etc are normally allowed to travel abroad on County Council business only with express approval as required by the TRAVEL AND ACCOMMODATION POLICY.
5. All arrangements for travel and hotel accommodation will be made by Travel and Transport Services in accordance with the TRAVEL AND ACCOMMODATION POLICY.
6. Expenses will be reimbursed in accordance with the TRAVEL AND ACCOMMODATION POLICY.
7. Councillors and others are required to provide receipts of actual expenses and details of meals provided when they submit claims for reimbursement.

## **APPENDIX**

### **ADMINISTRATIVE MATTERS**

#### **SUBMISSION OF CLAIMS**

1. Claims are processed through Democratic Services and paid through the payroll system.
2. The following deductions will be applied to late claims:
  - a. up to 3 months' delay - full payment
  - b. 3 – 6 months' delay - 50% reduction
  - c. after 6 months' delay - no payment made, except in exceptional circumstance where the matter would be referred to the Administration Committee for determination.

#### **INCOME TAX**

3. Tax will be deducted from payments of Basic Allowance and Special Responsibility Allowances. This will be at the standard rate of tax unless a Member makes arrangements with his Tax Inspector for a tax code to be allotted and notified to the County Council.
4. The County Council deals with:

HM Inspector of Taxes  
(Nottingham 1)  
Castle Meadow  
Castle Meadow Road  
Nottingham  
NG2 1AB
5. A return of tax deducted from allowances is made to the Inland Revenue at the end of each financial year and a P60 is provided to each councillor.
6. Arrangements have been made with the Inspector of Taxes (Nottingham 1) whereby Councillors on application can obtain, where appropriate, tax relief on their expenses of office. Further guidance is available from the Chief Finance Officer.

#### **SOCIAL SECURITY**

7. Contributions
  - a. National insurance contributions are payable on any payment of Basic Allowance and Special Responsibility Allowances provided the gross amount reaches a lower earnings limit in a certain period, unless a certificate of non-liability is produced (supplied by the Contributions Agency). The Chief Finance Officer will advise on the detailed operation of the scheme.

## 8. Benefits

- a. The receipt of Basic and Special Responsibility Allowances affects benefits. Councillors should notify the Benefits Agency of amounts received.
- b. The contribution paid by Councillors counts toward the full range of contributory benefits.

## **TRAVEL AND ACCOMODATION POLICY**

1. This policy (the Nottinghamshire County Council Travel Policy) covers the approval and booking arrangements for travel and accommodation required in connection with the Council's business. It does not apply to travel and accommodation required in connection with direct service delivery e.g. school, trips, service users' outings, where the relevant Departments will have their own procedures.
2. This policy replaces all previous policies, decisions and/or precedents relating to travel undertaken in connection with the business of the Council.
3. The power to amend this policy is reserved to the full Council.
4. The practices in this policy shall, as far as possible, reflect the contents of the County Council's Members' Allowances Scheme and the Terms and Conditions of Service for Employees (see paragraph 9 of the Financial Regulations and D7 and D10 of the Personnel Handbook).
5. In the event that a conflict arises between this Policy and the Members' Allowances Scheme the Monitoring Officer and the Chief Executive will mediate and determine the matter following consultation with the Leader.

## **GENERAL PRINCIPLES**

6. The policy is based on the following principles:
  - a. the proper conduct of business, and the overall efficiency of the Council;
  - b. transparency and accountability;
  - c. achieving Best Value in the use of the Council's resources, benefiting the community, the Council and councillors;
  - d. meeting the needs of those with disabilities and/or health problems.

## **APPROVAL PROCESSES**

7. The following travel may be undertaken without prior approval:
  - a. day to day travel within Nottinghamshire in connection with Nottinghamshire County Council business;
  - b. travel in connection with training and development events within the East Midlands which have been authorised in accordance with relevant policies.
8. All other travel must be approved in advance in accordance with the following:

Participant	Description	Approval required from
Councillors, Statutory and other co-opted members	(a) All travel within mainland UK not described in Schedule 2 of the Members' Allowances Scheme.	Administration Committee
	(b) Outside the UK	Administration Committee
Officers	(a) Within the UK	Relevant chief or other officer in accordance with departmental procedures
	(b) Outside the UK	Administration Committee

9. The County Council recognises that, in cases of genuine urgency, it may not be possible to obtain formal approval from the Administration Committee prior to the expected date of travel. In these cases, the Urgency Procedure (Part Five of the Constitution) should be used.

### **BOOKING ARRANGEMENTS**

10. With the exception of travel by private car in connection with the day to day business of the Council, all arrangements and/or bookings for travel and accommodation approved under this policy must be made by Transport and Travel Services in the Environment and Resource Department.
11. Provisional bookings will not be made unless approval has been given in accordance with paragraph 7.b of this policy.

### **METHOD OF TRAVEL**

12. At all times, the chosen method of travel must be the most cost-effective method, taking into account the value of time saved, anticipated subsistence and other expenses and any other relevant matters.

### **TRAVEL WITHIN THE UK (MAINLAND)**

13. Public transport should normally be used, unless the use of private/self-drive hire/civic cars is proved to be the most cost effective option, taking into account mileage charges, anticipated subsistence, other expenses and any other relevant consideration including but not limited to those at paragraph 12.
14. The use of private cars to attend events out of the County area must be determined in relation to the following criteria:
- a. cost in comparison to other options;
  - b. availability of public transport;
  - c. business requirements;

- d. disability or health considerations.
15. Other options which must be considered prior to approving the use of private cars are:
- a. car sharing;
  - b. use of hire cars/pool cars;
  - c. use of civic cars.
16. Any travel by train within mainland UK will usually be standard class fare unless travel by other classes of ticket is cheaper overall.
17. Any councillor or officer requesting first class rail travel must give reasons which shall be recorded in the register referred to the section below.
18. Councillors are encouraged to purchase appropriate railcards if eligible, in which case the Council will reimburse two-thirds of the cost. Councillors should advise Transport and Travel Services that they have a railcard at the time of booking, to ensure that a reduced price ticket is obtained.
19. Air travel within mainland UK will be permitted only where the cost/convenience brings benefits to the Council.

#### **TRAVEL TO NORTHERN IRELAND/REPUBLIC OF IRELAND/OUTSIDE THE UK**

20. Where available, and subject as follows, economy class should be used for all air, sea or land (i.e. rail) travel where this the most cost effective.
21. The County Council recognises that there will be occasions where it is not appropriate to use economy class i.e. where there are health or disability issues to be considered. In these cases, a higher class of travel may be permitted, wherever possible, subject to prior approval being by Administration Committee.

#### **ACCOMMODATION**

22. Mid range hotels of good standard with appropriate business facilities will be chosen within safe and reasonable access to where the business of the visit is to take place.
23. For conferences, the added value of all-inclusive packages will be evaluated against making separate hotel arrangements.

#### **SUBSISTENCE AND OTHER EXPENSES**

##### **WITHIN THE UK (INCLUDING NORTHERN IRELAND)**

24. All costs of the approved method of travel will be paid by the County Council.
25. Subsistence allowances may be claimed in exceptional circumstances. They will be the same for councillors, Statutory Co-optees, other co-opted Members and

officers. Details of the amounts which may be claimed are in the Members' Allowances Scheme.

26. Claims should be made on the forms provided as follows:

- a. officers – from their Department;
- b. councillors and others covered by the Members' Allowances Scheme – from Democratic Services.

27. Receipts should be obtained for all expenditure incurred.

## **OUTSIDE THE UK**

28. Accommodation will be booked and paid for by Transport and Travel Services in the Environment and Resource Department on behalf of the County Council.

29. Subsistence allowance may be claimed for actual reasonable expenses incurred on meals, beverages, transport within the foreign country, laundry, 'phone calls etc.

- a. The current maximum amount for subsistence per 24 hours for countries within the European Union is £75.00 (plus £10 per day for unreceipted out of pocket expenses).
- b. For travel to other destinations, Transport and Travel Services will calculate a maximum amount for subsistence per 24 hours. That amount will be notified to Administration Sub-Committee when approval is sought for the travel to be undertaken.

30. The above rates assume that all meals (excluding breakfast) will have to be paid for from the subsistence allowance. If meals are provided as part of the visit and at no personal cost to the Council's representative(s) the daily allowance will be reduced by 20% for each meal provided.

31. Receipts must be obtained wherever practicable for all claimable expenditure. Where this is not possible, a written statement will be required from the person claiming allowances.

## **ADMINISTRATION OF THE POLICY**

32. All travel tickets and/or accommodation required under this policy must be booked through Transport and Travel Services in the Environment and Resource Department.

33. Before any bookings are made, Transport and Travel Services will require written confirmation of approval. Where the cost is to be met by a Department, the appropriate budget code(s) for the expenditure will also be required.

34. Subject to normal formalities, Transport and Travel Services can arrange advances of cash, foreign currency and travellers' cheques. Any unspent



cash/currency or travellers cheques must be returned to Transport and Travel Services within one month of return from the visit.

35. All claim forms, together with receipts and details of expenses incurred must be submitted within one month of return from the visit.
36. County Council credit cards must only be used for claimable expenses incurred in carrying out the County Council's business and all receipts/vouchers in respect of any expenditure met in this way must be passed to Financial Services within one month of return from the visit.
37. Where the Council's representative wishes, for personal reasons, to extend their stay at the destination to which they have travelled, this is permitted on the strict understanding that no additional cost falls to be met by the Council and that all expenses in connection with the extension of stay are reimbursed before the date of outward travel.
38. Where the Council's representative is accompanied by a partner, the Council must be reimbursed for all expenses to be incurred in respect of travel arrangements made by Transport and Travel Services in respect of the partner before the date of outward travel.

## **RECORD KEEPING**

39. Transport and Travel Services will maintain a public register of the following information in respect of each item or travel undertaken under this policy:
  - a. name of traveller/participant;
  - b. purpose of travel/visit;
  - c. dates of travel;
  - d. destination;
  - e. method/class/cost of travel and/or accommodation;
  - f. cost of insurance;
  - g. amount(s) of allowances paid;
  - h. details of the date approval was given and the identity of the decision maker (including details of specific additional approvals from time given in respect of, for instance, travel by other than standard class);
  - i. the date on which the Council's representative(s) submitted a report on the outcome/value of the visit, where appropriate.
40. The register shall be available for public inspection and shall be published on the Council's website.
41. Annual reports shall be made to the Administration Committee which shall give:

- a. details of the totality of travel undertaken under this policy;
- b. information as to occasions upon which other than standard/economy class travel or its equivalent has been used.

## **PART B – CODES OF CONDUCT AND GUIDANCE FOR COUNCILLORS AND OFFICERS**

### **COUNCILLOR CODE OF CONDUCT**

#### **STATUS OF CODE**

1. The County Council adopted this Code of Conduct for its Councillors in accordance with Section 51 of the Local Government Act 2000 on 19 July 2007. The Code became effective for the County Council on 1 October 2007.

#### **APPLICATION OF THE CODE**

2. The Code applies to every councillor and to all co-opted and independent members. All those members are required to sign and undertake to observe this Code.
3. Any person may make a written complaint to the Council's Standards Committee that a member has acted in breach of this Code. This may lead to an investigation and to sanctions being applied up to disqualification from membership of any local authority for five years.
4. The Code represents the standard against which the public, their fellow councillors and the County Council's Standards Committee will judge members' conduct.
5. Each member should make sure that they are familiar with the requirements for personal conduct set by the Code. It is their responsibility to make sure that they comply with the Code. Every member should regularly review their personal circumstances with this in mind, particularly when those circumstances change. If in any doubt a member should seek advice from the County Council's Monitoring Officer or from their own legal advisor. In the end however, the decision and the responsibility are the member's.

### **THE MODEL CODE OF CONDUCT FOR MEMBERS**

#### **PART ONE - GENERAL PROVISIONS**

##### **INTRODUCTION AND INTERPRETATION**

6. This Code applies to **you** as a member of an authority.
7. You should read this Code together with the general principles prescribed by the Secretary of State.
8. It is your responsibility to comply with the provisions of this Code.
9. In this Code

“meeting” means any meeting of

- a. the authority;
- b. the executive of the authority;
- c. any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

“member” includes a co-opted member and an appointed member.

10. In relation to a parish council, references to an authority's monitoring officer and an authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under Section 55(12) of the Local Government Act 2000.

## **SCOPE**

11. Subject to paragraphs 12 to 15, you must comply with this Code whenever you

- a. conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
- b. act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

12. Subject to paragraphs 13 and 14, this Code does not have effect in relation to your conduct other than where it is in your official capacity.

13. In addition to having effect in relation to conduct in your official capacity, paragraphs 17(c), 20 and 21(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

14. Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in paragraph 13) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

15. Where you act as a representative of your authority

- a. on another relevant authority, you must, when acting for that other authority, comply with that other authority's Code of Conduct; or
- b. on any other body, you must, when acting for that other body, comply with your authority's Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## GENERAL OBLIGATIONS

16. You must treat others with respect.

17. You must not

- a. do anything which may cause your authority to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006);
- b. bully any person;
- c. intimidate or attempt to intimidate any person who is or is likely to be
  - i. a complainant,
  - ii. a witness, or
  - iii. involved in the administration of any investigation or proceedings,in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's Code of Conduct; or
- d. do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

18. In relation to police authorities and the Metropolitan Police Authority, for the purposes of paragraph 17(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

19. You must not

- a. disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where
  - i. you have the consent of a person authorised to give it;
  - ii. you are required by law to do so;
  - iii. the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - iv. the disclosure is reasonable and in the public interest; and made in good faith and in compliance with the reasonable requirements of the authority; or
- b. prevent another person from gaining access to information to which that person is entitled by law.

20. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

21. You

- a. must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- b. must, when using or authorising the use by others of the resources of your authority
  - i. act in accordance with your authority's reasonable requirements;
  - ii. ensure that such resources are not used improperly for political purposes (including party political purposes); and
- c. must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

22. When reaching decisions on any matter you must have regard to any relevant advice provided to you by

- a. your authority's chief finance officer; or
- b. your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

23. You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## **PERSONAL INTERESTS**

24. You have a personal interest in any business of your authority where either

- a. it relates to or is likely to affect
  - i. any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
  - ii. any body
    - aa. exercising functions of a public nature;
    - bb. directed to charitable purposes; or
    - cc. 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;
  - iii. any employment or business carried on by you;
  - iv. any person or body who employs or has appointed you;
  - v. any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
  - vi. any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of

- that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
  - vii. any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
  - viii. the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
  - ix. any land in your authority's area in which you have a beneficial interest;
  - x. any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
  - xi. any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- b. a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of
- i. (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
  - ii. (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
  - iii. (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

25. In paragraph 24(b), a relevant person is

- a. a member of your family or any person with whom you have a close association; or
- b. any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- c. any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- d. any body of a type described in paragraph 24(a)(i) or (ii).

## **DISCLOSURE OF PERSONAL INTERESTS**

26. Subject to paragraphs 27 to 32, where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

27. Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 24(a)(i) or 24(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
28. Where you have a personal interest in any business of the authority of the type mentioned in paragraph 24(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
29. Paragraph 26 only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
30. Where you have a personal interest but, by virtue of paragraphs 40 to 42, sensitive information relating to it is not registered in your authority's register of Members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
31. Subject to paragraph 36(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
32. In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under Section 22 of the Local Government Act 2000.

## **PREJUDICIAL INTEREST GENERALLY**

33. Subject to paragraph 34, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
34. You do not have a prejudicial interest in any business of the authority where that business
  - a. does not affect your financial position or the financial position of a person or body described in paragraphs 24 and 25;
  - b. does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraphs 24 and 25; or
  - c. relates to the functions of your authority in respect of
    - i. housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;



- ii. school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- iii. statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- iv. an allowance, payment or indemnity given to Members;
- v. any ceremonial honour given to Members; and
- vi. setting council tax or a precept under the Local Government Finance Act 1992.

### **PREJUDICIAL INTERESTS ARISING IN RELATION TO OVERVIEW AND SCRUTINY COMMITTEES**

35. You also have a prejudicial interest in any business before an Overview and Scrutiny Committee of your authority (or of a sub-committee of such a committee) where
- a. that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
  - b. at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### **EFFECT OF PREJUDICIAL INTERESTS ON PARTICIPATION**

36. Subject to paragraph 37, where you have a prejudicial interest in any business of your authority
- a. you must withdraw from the room or chamber where a meeting considering the business is being held
    - i. in a case where paragraph 37 applies, immediately after making representations, answering questions or giving evidence;
    - ii. in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

- b. you must not exercise executive functions in relation to that business; and
- c. you must not seek improperly to influence a decision about that business.

37. Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the Overview and Scrutiny Committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

## **REGISTRATION OF MEMBERS' INTERESTS**

38. Subject to paragraphs 40 to 42, you must, within 28 days of

- a. this Code being adopted by or applied to your authority; or
- b. your election or appointment to office (where that is later),

register in your authority's register of Members' interests (maintained under Section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 24(a), by providing written notification to your authority's monitoring officer.

39. Subject to paragraphs 40 to 42, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph 38, register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

## **SENSITIVE INFORMATION**

40. Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraphs 38 and 39.

41. You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 40 is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of Members' interests.

42. In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

## **EXPLANATORY NOTES (EXTRACT FROM THE STATUTORY INSTRUMENT)**

43. Paragraphs 6 to 10 of the Code provide that the Code applies to any member of an authority and that it is the responsibility of each member to comply with the Code.

44. Paragraphs 11 to 15 of the Code provide that the Code applies whenever a member is acting in his or her official capacity, and in relation to conduct in a member's private capacity the code only applies where such conduct has resulted in a criminal conviction. Additionally, where a member is acting as a

representative of his or her authority, he or she must continue to observe the authority's code, unless he or she is subject to another relevant authority's code, or unless (in relation to any other body) it conflicts with any other legal obligations.

45. Paragraphs 16 to 18 of the Code provide that Members must treat others with respect and not do anything which may cause their authority to breach equality legislation, or which compromises the impartiality of those who work for the authority or bully anyone or intimate persons involved in code of conduct cases.
46. Paragraph 19 of the Code provides that Members must not without consent disclose confidential information they have acquired and must not prevent others from gaining access to information to which they are entitled.
47. Paragraph 20 of the Code provides that a member must not conduct himself or herself in a manner which could bring his or her authority into disrepute.
48. Paragraph 21 of the Code provides that a member must not use his or her position improperly to gain an advantage or confer a disadvantage and that when using or authorising the use of the authority's resources, he or she must act in accordance with the authority's reasonable requirements, must not permit those resources to be used for political purposes and must have regard to the Local Authority Code of Publicity.
49. Paragraphs 22 and 23 of the Code provide that a member must have regard to advice given by the chief finance officer and monitoring officer and must give reasons for decisions made.
50. Paragraphs 24 and 25 of the Code provide a list of matters which constitute a personal interest.
51. Paragraphs 26 to 32 of the Code provide that generally a member with a personal interest in any business of his or her authority must disclose that interest at any meeting at which the business is considered.
52. Paragraphs 33 and 34 of the Code provide that generally a member with a personal interest also has a prejudicial interest if the interest could be regarded by a member of the public as so significant that it is likely to prejudice his or her judgement of the public interest. The paragraph provides that in specified circumstances a member may regard himself as not having a prejudicial interest.
53. Paragraph 35 of the Code provides that a member who was involved in making a decision or taking action on a matter must not be involved in the Overview and Scrutiny Committee's consideration of that decision or action.
54. Paragraphs 36 and 37 of the Code provide that a member with a prejudicial interest must, unless, for example, he or she is making representations and members of the public are also allowed to make representations on that matter, or he or she has obtained a dispensation, withdraw from any meetings at which the business is being considered, and must not improperly influence decisions in relation to the business.

55. Paragraphs 38 and 29 of the Code provide that a member must notify the monitoring officer of his or her personal interests and any change to those interests must also be notified.
56. Paragraphs 40 to 42 of the Code provide that a member may notify the monitoring officer of any sensitive information the availability of which to the public creates, or is likely to create, a serious risk that the member or a person who lives with him or her may be subjected to violence or intimidation.

## **OFFICER CODE OF CONDUCT**

### **INTRODUCTION**

1. The public is entitled to expect the highest standards of conduct from all officers of the County Council.
2. The Code sets out the standards of service that are expected from officers of the Council. In particular, officers should act in an open and transparent manner and should not do anything which would prejudice the reputation of the Council.
3. The Code should be read and operated in conjunction with the Council's Constitution and the Personnel Handbook. It is important officers understand their position as regards standards of conduct, and if in any doubt should seek guidance.

### **UNDERLYING PRINCIPLES**

4. All officers of the Council must at all times observe this Code. Failure to comply with the Code and the standards of service expected could result in disciplinary action.
5. All officers must act within the law whilst undertaking their official duties. Where an officer is a member of a professional body, the officer must also comply with any standards of conduct which are set by that body.
6. Officers are expected to:
  - a. Provide the highest possible standard of service to the public. Where officers are aware of any contraventions of this Code, illegality, misconduct or breach of procedure they should notify their line manager;
  - b. Provide appropriate advice to Councillors and other officers with impartiality.
7. Officers must consult the Monitoring Officer and the Chief Finance Officer if they have doubts about the legality of a decision, or suspect maladministration or financial impropriety.
8. The Code does not seek to address every possible circumstance, and simply because a particular action may not be addressed within the Code, this does not condone that action by omission.

### **PERSONAL INTERESTS**

9. Officers must declare to their Corporate Director any financial interests or non-financial interests which could or could be perceived to conflict with their role with the Council.
10. A record of any such interests will be maintained by the relevant Corporate Director.

11. Officers who have a direct or indirect financial interest in any contract must ensure that their Corporate Director is aware and should have no involvement with the award of or management of that contract.
12. If an officer is not sure about whether they have an interest, they should seek advice from the Monitoring Officer.

## **BRIBERY AND CORRUPTION**

13. Officers must be aware that it is a serious criminal offence for them to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity as a result of any such gift, etc.
14. It should be stressed that this covers all aspects of an officer's responsibilities. For example, showing favouritism to a client in the provision of a service in return for a favour or gift would be corrupt. As would awarding a contract to a contractor as a direct result of receiving a gift.
15. In particular:
  - a. Officers should not accept a gift or hospitality from a contractor or other person outside the Council if they know or suspect that it is offered or provided with the expectation that a commercial or contractual advantage will be provided in return;
  - b. Officers should not accept a payment from a contractor or other person outside the Council if they know or suspect that it is offered or provided with the expectation that they will obtain a commercial or contractual advantage in return;
  - c. Officers should not give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a commercial or contractual advantage will be received, or to reward a commercial or contractual advantage already given.

## **WHAT TO DO IF YOU ARE OFFERED A GIFT**

16. It is reasonable to accept a modest gift of a promotional character given to a wide range of people, and not uniquely to the officer, such as calendars, diaries, pens and other articles of use in the office or job. Modest gifts at the conclusion of any courtesy visit to a factory or firm of the sort normally given by that firm may also be accepted.
17. From time to time, officers may be offered other higher value or personal gifts. You need to consider why you have been offered the gift. If you are in doubt as to the motive behind the gift, you should seek advice from your Corporate Director as to whether it is appropriate to accept it. No gift worth over £25 should be accepted under any circumstances. Any gift offered, whether accepted or refused, should be recorded in the departmental gift and hospitality register.

## **WHAT TO DO IF YOU ARE OFFERED HOSPITALITY**

18. Officers of the Council should only accept offers of hospitality if they are invited in their role as a Council representative. Offers to attend purely social or sporting functions should be accepted only when these are significant for Nottinghamshire, or where the Council should be seen to be represented. Acceptance of such invitations should be cleared in advance with the relevant Corporate Director, and should be recorded in the departmental gift and hospitality register.
19. When hospitality has to be declined, the third party offering the hospitality should be courteously but firmly informed of the procedures and standards operating within the Council. When receiving hospitality, officers should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.
20. There may be circumstances where it will not always be possible, or even desirable, to reject offers of hospitality on a modest scale. Acceptable examples would include official hospitality at a function organised by a public authority; refreshments following a site visit; or a working lunch of a modest standard to enable the parties to continue to discuss business. The decision whether to accept or not must depend on the circumstances in each case. These circumstances will also determine whether the hospitality needs to be entered in the register of officers' interests. If in doubt officers should err on the side of caution and enter the appropriate details in the departmental register of officers' interests.

## **RECEIVING SPONSORSHIP OR GRANT AID**

21. Officers must provide details to their Corporate Director of any benefit they (or their partner, spouse or relative) may be likely to receive as a result of any proposed Council sponsorship or grant aid.

## **USE OF PUBLIC FUNDS**

22. Officers must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

## **POLITICAL NEUTRALITY**

23. Officers serve the Council as a whole. It follows they must serve all Councillors and not just those of the majority group, and must ensure that the individual rights of all Councillors are respected.
24. Officers may be required to advise political groups. They must do so in ways which do not compromise their political neutrality.
25. Officers must follow Council policies and must not allow their own personal or political opinions to interfere with their work.

## **EQUALITY ISSUES**

26. The Council believes in equality and will not tolerate any harassment, intimidation, unfair discrimination or victimisation, by officers.
27. The Council has a statutory duty to promote equality. Officers should not by their manner or speech be discriminatory with regards to a person's age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.
28. Each officer has a duty to ensure that the appropriate standards of conduct are upheld both by themselves and by colleagues at all times.

## **THE RELATIONSHIP BETWEEN OFFICERS AND COUNCILLORS**

29. Officers should refer to the Protocol for Councillor/Officer Working Relations in Part Six of this Constitution.

## **THE RELATIONSHIP BETWEEN OFFICERS AND THE PUBLIC**

30. Officers should always remember their responsibilities to the community of Nottinghamshire and ensure courteous, efficient and impartial service delivery to all groups and individuals they have dealings with.
31. Officers should be cautious when blogging or using social networking sites outside of work and avoid publishing, or allowing to be published, any material, including comments or images, which could damage their professional reputation and/or bring the Council into disrepute.

## **THE RELATIONSHIP BETWEEN OFFICERS AND CONTRACTORS**

32. All relationships of a business or private nature with external contractors, or potential contractors, should be made known to an appropriate senior manager.
33. Officers must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
34. Officers who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
35. Further guidance on the procedures to follow during the tendering process is contained in the Financial Regulations in Part Six of this Constitution.

## **APPOINTMENT AND OTHER EMPLOYMENT MATTERS**

36. Officers involved in appointments should ensure that these are made on the basis of merit.
37. In order to avoid any possible accusation of bias, officers wherever possible should not be involved in an appointment where they are related to an applicant, or have a



close personal relationship outside work with him or her. If they must be involved, then the relationship must be disclosed to all the parties.

38. Similarly, officers should not be involved in decisions relating to discipline, promotion or pay adjustments for any officer who is a relative, partner etc.

### **WORKING FOR OUTSIDE ORGANISATIONS**

39. Officers working for outside organisations should refer to section c.6 of the Personnel Handbook and the Protocol for Involvement in Outside Bodies.

### **USE OF COUNCIL PREMISES OR FACILITIES FOR WORK NOT CONNECTED WITH THE COUNCIL**

40. Officers must not use the Council's premises or facilities for activities which are not connected with their employment with the Council, for instance the use of email, telephones, computers, photocopiers, typists, etc. A small amount of personal use may be acceptable.

### **PUBLIC SPEAKING**

41. Where officers are invited to address public meetings, undertake radio or television interviews etc, they will be acting as the representative of the Council, and as such should communicate the policies and procedures of the County Council in a factual and unbiased way. Officers must not express personal views in such situations.
42. If in a private capacity an officer is invited to comment publicly on Council policies, they should reflect upon the impact of this on the County Council's reputation and consider whether it is appropriate to comment.

### **OFFICERS FACING CRIMINAL CHARGES**

43. Any officer facing criminal charges must inform their line manager without delay.

### **HEALTH AND SAFETY**

44. It is the responsibility of all officers to take reasonable care for the health and safety of themselves and others.

### **DISCLOSURE OF INFORMATION**

45. Officers must not disclose information given to them in confidence without consent, unless the circumstances are exceptional. In this situation, advice should be sought from their line manager.
46. Officers disclosing personal information must comply with the Data Protection Act.
47. Officers should not use confidential information obtained in the course of their employment with the Council for personal use, nor should they pass it on to others who might use it for unauthorised purposes.

48. Guidance about the information which Councillors and the public are entitled to is contained in Part Three of this Constitution.

## **PROTOCOL FOR COUNCILLOR AND OFFICER RELATIONSHIPS**

### **INTRODUCTION**

1. Mutual trust and respect between Councillors and employees is at the heart of good governance for councils. They are essential elements of the partnership necessary for the effective running of a local authority.
2. This protocol is a written guide to the basic elements of the relationships between Councillors and employees and seeks to:
  - a. promote trust, openness, fairness and honesty;
  - b. define roles to clarify responsibilities, avoid conflict, prevent duplication and secure compliance with the law and codes of conduct;
  - c. maintain and enhance the integrity of local government which demands the highest standards of personal conduct.
3. This protocol should be read and operated in conjunction with the Council's constitution, codes of conduct relating to Councillors and employees and relevant legislative requirements.
4. Unless the context otherwise requires, reference to a Councillor will include reference to a co-opted member.

### **UNDERLYING PRINCIPLES**

5. Councillors and employees must at all times observe this protocol.
6. Councillors and employees must always respect the roles and duties of each other as set out below.

### **THE ROLE OF MEMBERS**

7. It is the role of Councillors:
  - a. To represent the people within their communities and bring their views into the Council's decision making process through working individually or in partnership
  - b. To promote the interests of the people of Nottinghamshire when acting collectively as the Council's decision-makers
  - c. To promote the social, economic and environmental well being of the community.
  - d. Collectively to agree the policy of the County Council

- e. To deal with individual casework and act as an advocate for constituents in resolving concerns or complaints.
- f. To balance different interests within their electoral division and represent the division as a whole.
- g. To represent the Council on external bodies as required.
- h. To promote the highest standards of conduct and ethics.

## **THE ROLE OF OFFICERS**

8. It is the role of officers:
  - a. To serve the community of Nottinghamshire and to deliver the highest standards of service in the most cost effective, efficient and professional manner.
  - b. To implement the policies and decisions made by Councillors.
  - c. To provide professional and technical advice.
  - d. To carry out the functions delegated to them, including the management of staff.
  - e. To provide help, support and advice to Councillors in respect of their duties and responsibilities
  - f. To report to Government departments, as required.
  - g. To represent the Council on external bodies as required.

## **THE RELATIONSHIP BETWEEN EMPLOYEES AND COUNCILLORS**

9. The relationship between employees and Councillors should be characterised by mutual respect and courtesy and recognition of each others roles and responsibilities.
10. Collaborative working between Councillors and employees is essential but close personal familiarity can lead to damaging assumptions by others. Councillors and employees should inform the Monitoring Officer of any relationship either personal or family, or business connection which might be seen as unduly influencing their work in their respective roles. The Monitoring Officer will consider what action, if any, should be taken.
11. With the exception of staff specially appointed to support political groups, employees work to the instructions of their managers not individual Councillors.

12. Councillors must not require employees to change their professional advice or take any action which the employee considers unlawful or illegal or which would amount to maladministration or breach of a statutory duty.
13. Councillors should not raise matters relating to the conduct or capability of a Council employee or of employees collectively at meetings held in public or in the press. Any concerns should be raised using the procedure set out at paragraph 25 below.
14. The advice provided and actions taken by employees should be sensitive to the political nature of the organisation, but their advice should always be independent and unbiased.
15. Members must consult with the Monitoring Officer and the Chief Finance Officer about legality, maladministration and financial impropriety and if they have doubts as to whether a particular decision is or is likely to be contrary to the policy framework or budget.
16. The Council has a statutory duty to positively promote equality. Councillors and employees should not by their manner, speech, or in any written communication, be discriminatory with regards to a person's age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

#### **OFFICER RELATIONSHIPS WITH PARTY GROUPS**

17. It must be recognised by all employees and Councillors that in discharging their duties employees serve the Council as a whole and not exclusively any political group, combination of groups or individual Councillors.
18. Employees may properly be called upon to provide advice and information to political groups but must at all times maintain political neutrality. All employees must, in their dealings with political groups and individual Councillors, treat them in a fair and even handed manner.
19. Employees must respect the confidentiality of any party group discussions at which they are present and unless they are requested to do so by that party group, must not relay the content of such discussions to another party group or to any other Councillor.
20. The only basis on which the Council can lawfully provide support services (eg stationery, typing, printing, photocopying) to Councillors is to assist them in discharging their role in their official capacity as Councillor. Such support services must therefore only be used for Council business. They must never be used for party political or campaigning activity or for private purposes.

#### **EMPLOYEES TO KEEP COUNCILLORS INFORMED ABOUT LOCAL ISSUES**

21. To enable them to carry out their divisional role effectively, Councillors need to be fully informed about matters affecting their division. Corporate Directors must

ensure that their staff are aware of the requirement to keep local Councillors informed.

22. Whenever a public meeting is organised by the Council to consider a local issue it is recommended that all Councillors representing the divisions affected should be invited to attend the meeting.

## **MEDIA RELATIONS**

23. All relations with the media must be conducted in accordance with the Council's agreed procedures and the law on Local Authority publicity.
24. Employees will make every effort to keep Councillors informed of media interest in Council activities relevant to their responsibilities and the electoral divisions they represent, especially regarding strategic or contentious matters.

## **COMPLAINTS/CONCERNS**

### **PROCEDURE FOR COUNCILLORS**

25. If a Councillor is dissatisfied with the conduct, behaviour or performance of an officer they should raise the matter privately with the relevant Corporate Director. If their concerns relate to a Corporate Director the concern should be raised with the Chief Executive. If the concerns relates to the Chief Executive then the concern should be raised with the Monitoring Officer and Service Director responsible for Human Resources.

### **PROCEDURE FOR EMPLOYEES**

26. If an employee is unhappy with the conduct or behaviour of a Councillor they should seek to resolve the matter by appropriate discussion and involvement of their Corporate Director.
27. In the event that matters remain unresolved they should inform the Monitoring Officer who will consider what action should be taken.

## **SUMMARY**

28. Councillors and employees can expect the following from each other:

- a. Respect and courtesy
- b. The highest standards of integrity
- c. A working partnership
- d. An understanding of and support for respective roles, work loads and pressures
- e. Confidentiality
- f. A commitment to the Council as a whole

29. In addition Councillors can expect from employees:

- a. Timely responses to enquiries

- b. Professional advice
- c. Regular up to date information

## **PROTOCOL FOR INVOLVEMENT IN OUTSIDE BODIES**

1. The Council is committed to working with other local authorities, the private, voluntary and community sectors to deliver services in the most effective way. As a result Councillors and officers are often required to act as representatives on outside bodies. This document provides guidance for those acting as representatives.

## **APPOINTMENTS TO OUTSIDE BODIES**

2. The Council's Administration Committee is responsible for approving appointments to outside bodies and for determining which committee should receive regular updates from those bodies.

## **SUPPORT FOR REPRESENTATIVES ON OUTSIDE BODIES**

3. The Council will provide indemnity insurance in appropriate circumstances.
4. The Council will make every effort to maintain a fact sheet on each outside body, stating the purpose of representation, the responsibilities of Council representatives on those bodies, and the insurance position.
5. The Council has produced guidance regarding representatives' specific responsibilities when sitting on different types of bodies, such as limited and local authority companies, statutory bodies and charities. Further support is available from Democratic Services.

## **RESPONSIBILITIES OF COUNTY COUNCIL REPRESENTATIVES ON OUTSIDE BODIES**

6. Representatives must ensure they understand the capacity in which they are appointed to the outside body. This is important for two reasons:
  - a. The terms of appointment could mean that the individual takes on formal responsibilities, such as those of a company director or charitable trustee, and in some cases, personal liability. Representatives need to understand the extent of their role and be satisfied that appropriate indemnity insurance cover is provided either by the Council or the outside body.
  - b. In some instances the primary purpose is to represent the interests of the County Council, and in some the main duty is to the outside body. This may affect the considerations that are taken into account when contributing to the outside body's decision-making. Also, it is possible that a conflict of interest will arise between the Council and the outside body, for example where there is a disagreement over a funding issue. In the event this happens the representative must be clear in whose interests they are acting. If a conflict does arise the representative must seek advice from the Council's Monitoring Officer.



7. Representatives must follow the Council's Code of Conduct for Councillors or the Code of Conduct for Officers when they are acting in that capacity, including where they are representing the Council on an outside body. They must also ensure they follow any separate code of conduct that applies to the outside body. In the unlikely event there is a conflict they must seek advice from the Council's Monitoring Officer.
8. Representatives should always consider their duty of confidentiality to the Council, and where appropriate, to the outside body.
9. Representatives must report back to the relevant County Council committee as required.
10. It is good practice to check when first appointed whether expenses for travel and/or subsistence should be claimed from the County Council or the outside body.



## **PART C – EMPLOYMENT PROCEDURE RULES**

### **INTRODUCTION**

1. The Council has developed these regulations in order to outline the process to be followed when appointing or dismissing employees or taking disciplinary action against employees.
2. These regulations also deal with who has responsibility for changes to staffing structures. Staffing structures specify the number and types of posts that exist in each department.

### **APPOINTMENT AND DISMISSAL - SENIOR EMPLOYEES**

3. The Senior Staffing Sub-Committee is responsible for the appointment and dismissal of, and the taking of disciplinary action against, the following employees (who will be known as “Senior Employees” for the purposes of these regulations):
  - a. Chief Executive;
  - b. Corporate Directors;
  - c. Service Directors;
  - d. where the statutory role of the Head of Paid Service, Chief Finance Officer or Monitoring Officer is held by another post holder, that post holder.
4. The Senior Staffing Sub-Committee will meet as and when required.
5. The appropriate committee Chairman for the post being considered will always be present as a member of the Senior Staffing Sub-Committee. Where the issue being considered relates to the Chief Executive or a Corporate Director, the Senior Staffing Sub-Committee will have a membership of nine; otherwise the Senior Staffing Sub-Committee will have a membership of five.
6. The Senior Staffing Sub-Committee will be required to follow the Council's Recruitment and Selection Policy.

### **APPOINTMENTS**

7. The Council may choose to appoint any of the Senior Employees from an internal pool of candidates or by externally advertising.
8. The Council will draw up a job description and person specification which will be sent to any person on request.
9. The Senior Staffing Sub-Committee will draw up a shortlist of candidates for interview and assessment and will interview all short-listed candidates in accordance with:
  - a. the Recruitment and Selection Policy; and

- b. the advice of an appropriate HR advisor.
10. The preferred candidate will be offered the post subject to satisfactory references and pre-employment checks.
  11. A final decision in respect of the appointment of the Head of Paid Service, Chief Finance Officer and Monitoring Officer rests with Full Council.
  12. Where a reorganisation affects the structure/numbers of Senior Employee posts, posts in the new structure will be filled in line with the enabling process agreed at the time. Any competitive interviews will be carried out by the Senior Staffing Sub-Committee in accordance with the enabling process.

### **DISMISSALS AND DISCIPLINARY ACTION**

13. In the case of dismissals, the Senior Staffing Sub-Committee will hear the case against the Senior Employee concerned and the hearing will be conducted in accordance with the Council's Disciplinary Procedure.
14. A final decision in respect of the dismissal of the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer rests with full Council. Full Council will approve such dismissal before the notice of dismissal is issued.
15. The Senior Employee (unless the employee is the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer) will have a right of appeal to the Appeals Sub-Committee in accordance with the appeals process set out in the Personnel Handbook. The Appeals Sub-Committee will be advised by an appropriate HR adviser who has had no previous dealings with the matter.
16. In the case of the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, no disciplinary action may be taken until a recommendation has been made following an investigation by a designated independent person. The neutral act of suspension for the purpose of investigating the alleged misconduct can be made by:
  - a. the Monitoring Officer in relation to the Head of Paid Service; or
  - b. the Head of Paid Service in relation to the Chief Finance Officer or the Monitoring Officer,in consultation with the Council Leader and Chairman of the Personnel Committee and any suspension will be on full pay and for a period of no longer than two months.

### **APPOINTMENT OF ASSISTANTS TO POLITICAL GROUPS**

17. The appointment of any person as a political assistant must be done in accordance with legislative requirements.

## **APPOINTMENT, DISMISSAL AND MANAGEMENT OF ALL OTHER EMPLOYEES**

18. The appointment, dismissal and management of employees (except Senior Employees) including disciplinary action will be carried out by properly authorised officers of the Council in line with the Recruitment and Selection Policy, other employment policy and procedures agreed by the Council and in compliance with statutory obligations.

## **EMPLOYMENT POLICIES AND PROCEDURES**

19. The Council recognises national collective bargaining and acknowledges the role of national negotiating bodies in agreeing a framework of terms and conditions for local government employees.
20. Regular information will be provided to committees as and when required and requested regarding staffing.
21. The Council will develop and amend employment policies as required.
22. Proposals for new initiatives, for changes to existing employment policies and the development of management guidance will be developed by Personnel Committee.
23. Proposals for new employment policies or changes to existing policies will be subject to consultation and negotiation with the recognised trade unions through the agreed mechanisms as set out in the Employment Relations Agreement as amended from time to time. Following consultation changes to existing employment policies and new policy matters will be considered by Personnel Committee and recommended to Policy Committee for approval.
24. Details of approved employment policies and procedures and any changes will be set out in the Personnel Handbook, policy documents or guidelines as appropriate.
25. The Council will recommend that community schools adopt the Council's approved employment policies and procedures; however the adoption or otherwise of such policies will be a matter for the school governing body, if such responsibility rests with them.

## **CHANGES TO STAFFING STRUCTURES**

26. Changes to staffing structures must be made by the relevant committees unless the post is temporary for less than 3 months. In such cases, the relevant Corporate Director can authorise the appointment (provided that, if the requirement for the temporary appointment continues after this time, the relevant committee's approval will be required).
27. A formal report will need to be presented to the relevant committee and will include the required advice and HR comments.
28. The recognised trade unions will be consulted on all proposed changes to staffing structures and any views given should be fully considered prior to a decision being made.

## **CHANGES TO STAFFING AND STRUCTURE RECORDS**

29. The Business Services Centre (BSC) will maintain staffing and structure records. The Chief Executive and his/her nominees must ensure that any changes to the staffing structures within their departments are notified to the BSC immediately after authorisation via the established procedures.

## **PAY AND GRADINGS**

30. Full Council will approve the Council's annual Pay Policy Statement.
31. For posts occupied by staff employed under the NJC for Local Government Services Agreement, the initial grading and any subsequent re-grading will be determined by the application of either the NJC or Hay Job Evaluation Schemes.
32. The re-grading of existing posts following evaluation using the Hay or National Job Evaluation Schemes will be automatically incorporated into contracts of employment.
33. The grading of new posts needs to be detailed in the reports to the relevant Committee regarding establishing those posts.
34. The re-grading of posts for those employee groups where job evaluation is not applied will require authorisation by the relevant Corporate Director (or their nominee) and will be reported back periodically to the relevant Committee for information.
35. With the exception of honoraria and market factor supplement payments that have been considered through the approved process set out in the Personnel Handbook, there is no discretion to apply extensions of pay above or outside of authorised pay bands. All honoraria and market supplement payments will be reported back to the relevant Committee periodically.
36. As a result of national collective bargaining, the Council will implement national pay awards as agreed by the various national joint negotiating bodies from time to time. The Council will determine a local pay structure comprising a number of salary bands, based on the National Pay Spine, extended as appropriate.

## **RESOLUTION OF DISPUTES UNDER THE EMPLOYMENT RELATIONS AGREEMENT**

37. Arrangements for the conduct of relationships with the recognised trade unions will be set out in the Employment Relations Agreement which is agreed between the parties.
38. The Employment Relations Agreement will incorporate the structure and mechanisms for dialogue, consultation and negotiation with recognised trade unions at both corporate and departmental level and will include joint arrangements for the resolution of disputes including the establishment of a Local Joint Resolutions Committee.

39. A separate process for trade union consultation and negotiation with schools may be agreed directly with the relevant trade unions.





