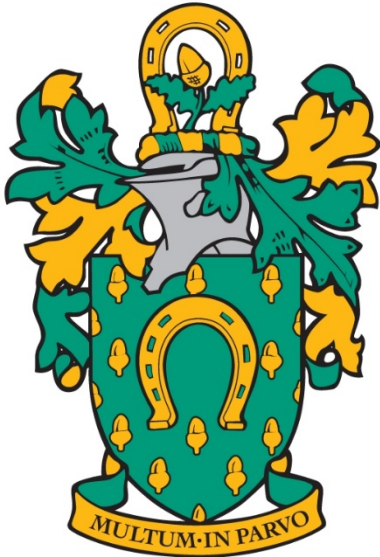


# Rutland County Council

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# Rutland County Council

## CONSTITUTION

Approved at Annual Council 9  
May 2022

# RUTLAND COUNTY COUNCIL DISTRICT COUNCIL CONSTITUTION

## PART 1 – INTRODUCTION

### THE COUNCIL'S CONSTITUTION

- 1) Rutland County Council District Council adopted its constitution with effect from September 2001. The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent, and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. The Constitution is divided into 15 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

This is a document to help residents, businesses, partners, stakeholders, councillors and officers understand how the Council works. We have included hyperlinks between different parts of the Constitution wherever possible to make it easy to navigate your way around the information. We have also included hyperlinks to other documents/sites where we think this will be helpful. All hyperlinks are coloured [blue](#) like this.

If you have any queries about anything in this Constitution, please contact the Democratic Services Team: [democraticservices@rutland.gov.uk](mailto:democraticservices@rutland.gov.uk)

### What's in the Constitution?

- 2) Article 1 of the Constitution commits the Council to a series of principles for decision making on services and exercising community leadership.
- 3) Articles 2 – 15 explain the rights of citizens and how the key parts of the Council operate. These are:
  - Members of the Council (Article 2).
  - Citizens and the Council (Article 3).
  - The Full Council meeting (Article 4).
  - Charing Meetings of the Council. (Article 5)
  - Scrutiny Committees (Overview and scrutiny of decisions) (Article 6).
  - The Cabinet (Article 7)
  - Regulatory and other Committees in the Council (Article 8).
  - Area Committees and Forums (Article 9).
  - Joint Arrangements (Article 10).
  - Officers (Article 11).
  - Decision making (Article 12).
  - Finance, contracts and legal matters (Article 13).
  - Review and revision of the Constitution (Article 14).
  - Suspension, interpretation and publication of the Constitution (Article 15).
  - Schedule 1 – Description of the Executive Function.

### How the Council operates;

- 4) The Council is composed of [27 councillors](#) elected every four years. The next elections will be held in 2027, and every 4 years thereafter. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
- 5) Councillors are bound by a code of conduct to ensure high standards in the way they undertake their duties. The Conduct Committee arranges training and advises them on the code of conduct.
- 6) All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies and set the budget each year. The Council appoints the Leader of the Council and the members of Council Committees. The Leader of the Council appoints the other members of the Cabinet. The Council also plays a role in holding to account the Cabinet, Council Committees and Scrutiny Committees.

## **CABINET**

- 7) The Cabinet is the part of the Council which is responsible for most day-to-day decisions. There are some decisions which, by law, can only be made by the Council. These are set out in a schedule at Part 8 of this Constitution. The Cabinet is made up of a Leader appointed by the Council and up to nine councillors who are appointed by the Leader. When key decisions are to be discussed or made, these are published 28 days in advance in so far as they can be anticipated. If these key decisions are to be discussed with Council Officers at a meeting of the Cabinet, the meeting will generally be open for the public to attend except where personal, exempt or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

## **OVERVIEW AND SCRUTINY**

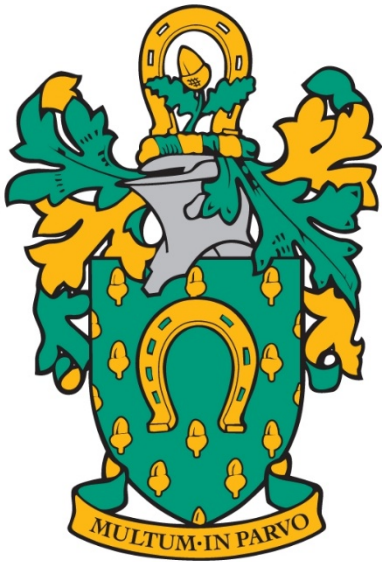
- 8) The Council must have at least one overview and scrutiny committee, to support the work of the Cabinet and the Council as a whole. The Strategic Overview and Scrutiny Committee allows Cabinet decisions to be examined and matters of local concern to be considered. These lead to reports and recommendations to advise the Cabinet, Partners and the Council as a whole on-policies, budget and service delivery. The Strategic Overview and Scrutiny Committee also monitors the decisions of the Cabinet. It can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables it to consider whether the decision is appropriate. It may recommend that the Cabinet reconsiders the decision. It may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

## **COUNCIL EMPLOYEES**

- 9) The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationship between officers and members of the Council.

## RIGHTS OF RESIDENTS AND MEMBERS OF THE PUBLIC

- 10) These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on an individual's legal rights.
- 11) Where members of the public use specific council services, for example as a parent of a school pupil, they have additional rights. These are not covered in this Constitution.
- 12) Members of the Public-have the right to:
  - vote at local elections if they are registered,
  - contact their local councillor and the Leader of the Council about any matters of concern to them,
  - view the Constitution,
  - attend meetings of the Council, its Committees and Scrutiny Committees except where exempt, for example, personal, or confidential matters are being discussed,
  - petition to request a referendum on a mayoral form of executive,
  - participate by submitting petitions, deputations and questions to Council, its Committees and Scrutiny Committees and may in some instances contribute to investigations by the Scrutiny Committees as co-opted members or witnesses,
  - find out, from the Cabinet's Forward Plan, what key decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when,
  - attend meetings of the Cabinet where decisions are being discussed or decided (in most cases),
  - see reports and background papers, and any record of decisions made by the Council and Cabinet,
  - complain to the Council about something the Council has done, failed to do, or has done in a way that is considered unsatisfactory. A copy of the Complaint Procedure can be found online,
  - complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own Complaint Procedure,
  - complain to the Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
  - inspect the Council's accounts and make their views known to the external auditor.
- 13) The Council welcomes participation by members of the public in its work. For further information, please contact the Democratic Services Manager who will be able to advise you on the procedures for submitting petitions, questions, and deputations to meetings of the Council, its Committees and Scrutiny Committees. Further information can also be [found on the Council's website](#).
- 14) Members of the Public-have the right to inspect agendas and reports and attend meetings of the Council, its Committees, Overview and Scrutiny Committees and the Cabinet unless a matter is being discussed for which it is necessary to exclude the public and press. Agenda and reports can be inspected in the Customer Services Centre at Catmose and from the council's website on the day of publication as required by the law and in some instances these documents may be made available at an earlier date. Copies of these documents will also be made available in all the Council's public libraries.



# Rutland County Council

## PART 2 OF THE CONSTITUTION THE ARTICLES

## **Article 1 – The Constitution**

### **1) Powers of the Council**

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

### **2) The Constitution**

This Constitution, and all its Parts is the Constitution of Rutland County Council District Council.

### **3) Purpose of the Constitution**

The purpose of the Constitution is to help residents, businesses, partners, stakeholders, councillors, and officers understand how the Council works and will:

a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses, and other organisations,

b) support the active involvement of citizens in the process of local authority decision-making.

c) help councillors represent their constituents more effectively,

d) enable decisions to be taken efficiently and effectively,

e) create a powerful and effective means of holding decision-makers to public account.

f) ensure that no one will review or scrutinise a decision made by a body of which they were a member.

g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and

h) provide a means of improving the delivery of services to the community.

### **4) Interpretation and Review of the Constitution**

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.



## Article 2 – Members of the Council

### DEVELOPING ROLES FOR COUNCILLORS

#### 1) **Composition and Eligibility**

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

The Council will comprise 27 members, otherwise called councillors. Councillors will be elected by the voters of each of the Council's 15 wards in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by the Electoral Commission. New Ward Boundary arrangements were introduced for the elections in 2019. All wards are represented by either one, two or three councillors.

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

Only registered voters of Rutland or those living, working or owning property or land there will be eligible to hold the office of councillor, provided they are not disqualified from holding office and have attained the age of 18 years by the date of their nomination.

#### 2) **Election and Terms of Councillors**

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

#### 3) **Roles and Functions of all Councillors**

##### a) **Key roles - All councillors will:**

- i) collectively be the ultimate policymakers and carry out a number of strategic and corporate management functions.
- ii) represent their communities and bring their views into the Council's decision-making process, i.e., become the advocate of and for their communities.
- iii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making.
- iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances.
- v) balance different interests identified within the ward and represent the ward or electoral division as a whole,
- vi) respond to constituents' enquiries and representations, fairly and impartially,
- vii) participate in the governance and management of the Council,
- viii) be involved in decision-making.
- ix) be available to represent the Council on other bodies; and

- x) maintain the highest standards of personal conduct and ethics even if this impinges upon the ability to act as an advocate of constituents.

**b) Rights and Duties:**

- i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

**4) Election of the Leader of the Council**

- a) The term of office for the Leader of the Council will be 4 years and will be elected at the Annual Meeting of the Council the year where there is an ordinary election of councillors. They will take office immediately on being appointed by the Council by a simple majority and will continue in office for four years unless they resign from office or are removed from office by a simple majority of the total membership of the Council at any time.
- b) If the Council passes a resolution to remove the Leader from office, the Council will elect a new Leader at the meeting at which the Leader is removed or at a subsequent meeting.

**5) Role and Function of the Leader of the Council**

**The primary role and responsibilities of the Leader of the Council will be:**

- a) to lead the Council's overall cohesive corporate and strategic direction, budget, strategy and policy development;
- b) to preside over meetings of the Cabinet;
- c) to be the principal spokesman for the Council; and
- d) to co-ordinate and develop partnership working and community liaison.

**Executive roles of the Leader are:**

- a) to determine the size of the Cabinet;
- b) to appoint between two and nine members of the Council to be the Cabinet in addition to him or herself;
- c) to allocate areas of responsibility (portfolios) to the Cabinet members,
- d) to remove Cabinet members from that office as they see fit;
- e) to determine the scheme of delegation for the discharge of the executive functions of the Council;

- f) to report to the Council on all appointments and changes to the Cabinet membership.
- g) to appoint one of the Cabinet members to be their deputy, to hold office until the end of their term of office as Leader (unless the member resigns as Deputy Leader, ceases to be a councillor, or is disqualified or removed from office by the Leader);
- h) if they see fit, to remove the Deputy Leader from office, in which event they must then appoint another Cabinet member to that position.

If for any reason the Leader is unable to act or the office is vacant, the Deputy Leader must act in that position. If the Deputy Leader is unable to act or the office is vacant, the Cabinet must act in the Leader's place or arrange for a member of the Cabinet to do so.

## 6) **Conduct**

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

## 7) **Allowances**

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

# **Article 3 – Members of the Public and the Council**

## 1) **Public Rights**

Members of the Public have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution.

## 2) **Voting**

Members of the public on the electoral roll for the area have the right to vote

## 3) **Information**

Members of the Public have the right to:

- i) observe meetings of the Council, its Committees, Scrutiny Committees and the Cabinet except where confidential or exempt information is likely to be disclosed, and the meeting may therefore be held in private;
- ii) find out from the Forward Plan what key decisions will be taken by the Cabinet and when.
- iii) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
- iv) inspect and ask questions about the Council's accounts and make their views known to the external auditor.

#### 4) **Participation**

Members of the Public have the right to participate in the Council's business by submitting petitions, deputations and questions to the Council, its Committees and Scrutiny Committees and also contribute to investigations by Scrutiny Committees.

#### 5) **Complaints** - Members of the Public have the right to complain to:

- i) the Council itself under its complaints scheme.
- ii) the Local Government Ombudsman after using the Council's own complaints scheme;
- iii) the Monitoring Officer about a breach of the Councillor's Code of Conduct.

#### 6) **Residents and Service User Responsibilities**

Members of the Public must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the Council, Councillors or Officers.

### **Article 4 – The Full Council**

#### 1) **Meanings**

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

The policy framework means the following plans and strategies

- Children and Young Persons Plan;
- Corporate Strategy
- Crime and Disorder Reduction Strategy;
- Health and Wellbeing Strategy
- Statement of Licensing Policy
- Local Transport Plan including the Bus Service Improvement Plan;
- Plans and strategies which together comprise the Development Plan;
- Development Plan Documents
- Youth Justice Plan.

##### b) **Budget**

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

#### 2) **Functions of the Full Council**

Only the Council will exercise the following functions:

- a) adopting and changing the Constitution other than consequential changes which may be made by the Monitoring Officer and will be reported to the next normal meeting of the Constitution Commission.

- b) approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer,
- c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
- d) appointing the Leader;
- e) agreeing and/or amending the Terms of Reference for Committees, deciding on their composition and making appointments to them and appointing Chairmen,
- f) agreeing and/or amending the Terms of Reference for Scrutiny Committees, deciding on their composition and making appointments to them,
- g) appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- h) adopting an allowances scheme under Article 2, point 7);
- i) changing the name of the area or conferring the title of Honorary Alderman or Freeman;
- j) confirming the appointment of the Head of Paid Service;
- k) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- l) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- m) all other matters which, by law, must be reserved to Council. (See also the schedule at the end of Part 3)

### 3) **Council Meetings**

There are three types of Council meeting:

- a) the annual meeting,
- b) ordinary meetings,
- c) special meetings.

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

### 4) **Responsibility for Functions**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

## Article 5 – Chairing Meetings of the Council

### 1) Role and Function of the Chairman of the Council

The Chairman of the Council and in their absence, the Vice-Chairman will have the following roles and functions:

- a) **First Citizen** The Chairman of the Council shall take precedence and shall be the first citizen of Rutland.
- b) **Promotion of the Council** The Chairman will promote the Council as a whole and act as a focal point for the community.
- c) **Ceremonial Matters** The Council will decide what civic and ceremonial duties the Chairman will carry out.

### 2) The Council will elect the Chairman annually. The Chairman will have the following responsibilities:

- a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet, who do not sit on regulatory Committees or hold appointments as Committee Chairmen, are able to hold the Cabinet and members of the regulatory Committees and Committee Chairmen to account;
- d) to promote public involvement in the Council's activities;
- e) to be the conscience of the Council; and
- f) to attend such civic and ceremonial functions in Rutland and neighbouring authorities as the Council and they determine to be appropriate.

## Article 6 – Overview and Scrutiny

### 1) Terms of Reference

The Council has one [Strategic Overview and Scrutiny Committee](#). This Committee is also the Council's designated crime and disorder committee under Section 19 of the Police and Justice Act 2006 and is responsible for local authority scrutiny of health matters under the National Health Service Act 2006.

### 2) Composition

The arrangements with respect to the composition of the Overview and Scrutiny Committee will be as follows:

- a) The Committee will have a maximum of nine non-executive councillors, and in accordance with the provisions of the Local Government Housing Act 1989, will reflect the political balance of the Council.
- b) The Chairman will be appointed at the Annual Meeting of the Council for the ensuing year. The Chairman of the Committee should be a Member of an opposition group unless resolved otherwise by Council.
- c) The Committee will appoint a Vice-Chairman, drawn from those councillors serving on the Committee.
- d) Cabinet Members will be expected to attend the Committee, and task and finish or working groups appointed by the Committee, when invited, to contribute on matters that relate to their portfolio.
- e) The Committee will have five representatives with full voting and call-in rights on education matters only; comprising one Church of England diocese representative, one Roman Catholic diocese representative and 2 parent governor representatives.
- f) The Committee will be able to co-opt external representatives or appoint advisers, as it sees fit in a non-voting capacity.
- g) Councillors and co-optees may not be involved in scrutinising a decision in which they have been involved directly.

### 3) **General Role**

The Strategic Overview and Scrutiny Committee will:

- a) review and/or scrutinise decisions made, or actions taken in connection with the discharge of any of the Council's functions;
- b) review, develop or propose policies in connection with the discharge of any of the Council's functions.
- c) make reports and/or recommendations to the full Council and/or the Cabinet and/or any policy, joint or Area Committee in connection with the discharge of any functions.
- d) consider any matter affecting the area or its inhabitants; and
- e) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet and/or any joint or Area Committees.
- f) discuss initiatives put forward for consideration by individual members of the Committee and any relevant 'call-for-action' in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution; and
- g) consider petitions referred to the Overview and Scrutiny Committee in accordance with provisions set out in the Petition Scheme set out in Part 5 of this Constitution.
- h) Follow up on any Recommendations or reports.

### 3) **Specific functions**

## a) **Policy development**

The Strategic Overview and Scrutiny Committee may:

- i) assist the Council and the Cabinet in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
- ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- iv) question members of the Cabinet and/or Committees and senior officers about their views on issues and proposals affecting Rutland subject to the approved protocols; and
- v) liaise with other external organisations operating in Rutland, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

## b) **Scrutiny**

The Strategic Overview and Scrutiny Committee may:

- i) review and scrutinise the decisions made by and performance of the Cabinet and/or Committees and Council officers both in relation to individual decisions and over time;
- ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- iii) question members of the Cabinet and/or Committees and senior officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- iv) make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance; and
- vi) question and gather evidence from any person (with their consent).
- vii) review and scrutinise health service provision within its area, health promotion and the health and well-being of local communities under the relevant Health legislation.
- viii) use innovative ways to scrutinise matters of concern; the issue being investigated should be matched to the most appropriate process.

## c) **Finance**



The Strategic Overview and Scrutiny Committee may exercise overall responsibility for the finances made specifically available to them to undertake their scrutiny function.

**d) Performance Management and Review**

The Overview and Scrutiny Committee will make arrangements to review and scrutinise the performance of the Council in relation to its policy and budgetary objectives, performance targets and/or particular service areas.

- i) undertake performance reviews of the Council's functions as appropriate and prepare appropriate reports for the Cabinet and the Council.
- ii) monitor and review the outcomes of performance and process reviews and make further recommendations where necessary; and
- iii) consider the policy implications arising from reviews for other functions and services.
- iv) Monitor performance against and delivery of the Rutland Corporate Plan and the Future Rutland Vision

**e) Annual Report**

The Strategic Overview and Scrutiny Committee will report annually to full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

**f) Officers**

The Strategic Overview and Scrutiny Committee may exercise overall responsibility for the work programme of the officers employed to support their work within any approved budgets.

**4) Proceedings of Scrutiny Committees**

The Strategic Overview and Scrutiny Committee will conduct its proceedings in accordance with Scrutiny Committee Procedure Rules set out in Part 4 of this Constitution.

**Article 7 – [The Cabinet](#)**

**1) Role**

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

**2) Form and Composition**

The Cabinet will consist of the Leader of the Council together with up to 9 more Members appointed by the Leader. The Leader and the other Members will be known collectively as the Cabinet in Rutland.

**3) Leader**

The Leader will be a councillor elected to the position of Leader by the Council. The Leader will hold office until:

a) they resign from the office; or

b) they are no longer a councillor; or

c) they complete the period of office in Article 2, part 4) or is removed from office by a simple majority or 50% of all Members plus 1 Member (for the current size of 27 Councillors this would be 14 Members) of the Council at any time, following a Notice of Motion to Council.

#### 4) **Other Cabinet Members**

Other Cabinet members shall hold office until:

a) they resign from office; or

b) they are no longer councillors; or

c) they are removed from office, either individually or collectively, by the Leader.

#### 5) **Proceedings of the Cabinet**

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

#### 6) **Responsibility for Functions**

The Leader will maintain a Scheme of Delegation in Part 8 of this Constitution setting out where appropriate which individual Members of the Cabinet, Committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular executive functions. The Leader will notify the Monitoring officer of any changes to the list of delegations within 5 working days of any change

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

### 1) **Regulatory and Other Committees**

The Council will appoint the Committees set out below to discharge the functions described in Part 3 Sections 6 – 11 of this Constitution.

[Audit and Risk Committee](#)

[Conduct Committee](#)

[Constitution Commission](#)

[Employment and Appeals Committee](#)

[Health and Wellbeing Board](#)

[Planning and Licensing Committee](#)

## **Article 9 – Area Committees**

### 1) Area Committees

The Council has resolved not to appoint Area Committees.

## **Article 10 – Joint Arrangements**

### **1) Arrangements to promote Well Being**

The Cabinet, in order to promote the economic, social or environmental well-being of Rutland, may:

- a) enter into arrangements or agreements with any person or body;
- b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- c) exercise on behalf of that person or body any functions of that person or body.

### **2) Joint Arrangements**

a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions or advise the Council. Such arrangements may involve the appointment of a joint Committee with these other local authorities.

b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint Committees with these other local authorities.

c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint Committee and those members need not reflect the political composition of the local authority as a whole.

d) The Cabinet may appoint members to a joint Committee from outside the Cabinet in the following circumstances:

- the joint Committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint Committee any councillor who is a member for any ward which is wholly or partly contained within the area. (The political balance requirements do not apply to such appointments).

e) Where the appointment of a Committee is not required then the Head of Paid Service may establish such joint working as they feel appropriate for the efficient discharge of the functions of the Authority provided always that only matters that are delegated to Officers are within the remit of such functions.

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

### **3) Access to Information**

a) The Access to Information Rules in Part 4 of this Constitution apply.

b) If all the members of a joint Committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the executive.

c) If the joint Committee contains members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

#### 4) **Delegation to and from other Local Authorities**

a) The Council may delegate functions to another local authority or, in certain circumstances, to the executive of another local authority.

b) The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.

c) Where matters to be delegated are within the remit of functions that have been delegated to Officers then the Head of Paid Service may delegate functions to another local authority or person.

#### 5) **Contracting out**

The Council, for functions which are not executive functions, and the Cabinet, for executive functions, may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

### **Article 11 – Officers**

#### 1) **Management Structure**

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

The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

##### b) **Chief Officers**

The full Council will engage persons for the post of Chief Executive and Statutory Officers. The Chief Officers Appointment Committee will engage persons for the other posts, who will be Members of the Corporate Leadership Team (See Part 7 RCC Constitution).

##### c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer**

The Council will designate the following posts as shown:

<b>POST</b>	<b>DESIGNATED OFFICER</b>
Head of Paid Service	Chief Executive
Monitoring Officer	Strategic Director for Law and Governance
Chief Finance Officer (Section 151 Officer)	Strategic Director for Resources

The duties of both the Monitoring Officer and Chief Finance Officer (apart from the administration of the financial affairs of the council) must be carried out personally but can be carried out by a deputy nominated by them in cases of absence or illness. It is the function of the relevant officer to appoint each deputy, not the Council.

Such posts will have the functions described in Article 11 section 2) - 4) below.

**d) Structure**

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

**2) Functions of the Head of Paid Service**

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

The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

**b) Restrictions on Functions**

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

**3) Functions of the Monitoring Officer**

**a) Maintaining the Constitution**

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

**b) Ensuring Lawfulness and Fairness of Decision Making**

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council, or to the Cabinet in relation to an executive function, if he considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

**c) Supporting the Conduct Committee**

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

**d) Proper Officer for Access to Information**

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

**e) Advising whether Cabinet Decisions are within the Policy Framework**

The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the policy framework.

**f) Providing Advice**

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

g) **Complaints**

The Monitoring Officer has the responsibility for being the Council's Corporate Complaints Officer and will be responsible for ensuring that adequate procedures are in place to record and monitor complaints.

h) **Restrictions on Posts**

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

4) **Functions of the Chief Finance Officer**

a) **Ensuring Lawfulness and Financial Prudence of Decision Making**

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council, or to the Cabinet in relation to an executive function, and the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

c) **Administration of Financial Affairs**

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

d) **Duty to Act**

To take action in accordance with Section 114 of the Finance Act 1988 where action is needed in their opinion. This relates to the requirement to report to all Members of the Council, in consultation with the Monitoring Officer, if there is or is likely to be unlawful expenditure or an unbalanced budget.

e) **Contributing to Corporate Management**

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

f) **Advising whether Cabinet Decisions are outside or not wholly in accordance with the Budget Framework**

The Chief Finance Officer will advise whether decisions of the Cabinet are outside or not wholly in accordance with the budget framework.

g) **Providing Advice**

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.

g) **Give Financial Information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

5) **Duty to provide sufficient Resources to the Monitoring Officer and Chief Finance Officer**

The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

6) **Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

7) **Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

## **Article 12 – Decision Making**

1) **Responsibility for Decision Making**

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

2) **Principles of Decision Making**

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the considering of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.

3) **Types of Decision**

- a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4, will be made by the full Council and not delegated.
- b) Key decisions.

A 'key decision' means an executive decision which is likely to:

- i) result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- ii) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in Rutland;
- iii) in determining the meaning of 'significant' in paragraphs i) and ii) above regard must be paid to any guidance issued by the Secretary of State.

iv) A decision taker may only make a key decision in accordance with the requirements of the Local Government Act 2000 and its Associated Regulations and in accordance with procedural rules set out in Part 4 of this Constitution.

4) **Decision making by the Full Council**

Subject to Article 12, Section 8) the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

5) **Decision making by the Cabinet**

Subject to Article 12, Section 8) the Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

6) **Decision making by Scrutiny Committees**

Scrutiny Committees will follow the Scrutiny Committee Procedures Rules set out in Part 4 of this Constitution when considering any matter. Scrutiny Committees do not have any authority to take any decisions to discharge services or functions on behalf of the Council or the Cabinet. Scrutiny Committees can make recommendations on services and functions and the policy for delivering these services and functions.

7) **Decision making by other Committees and Sub-Committees established by the Council**

Subject to Article 12, Section 8) other Council Committees and Sub-Committees will follow the Committee Procedures Rules set out in Part 4 of this Constitution.

8) **Decision making by Council bodies acting as Tribunals**

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

9) **Decision-making by Council Officers**

Council officers shall exercise powers delegated to them in accordance with Article 11 and Part 3 of the Constitution – Scheme of Delegations and Designations of Proper Officers and shall record, in accordance with the relevant statutory provisions and regulations, any executive decisions that they may make.

## **Article 13 – Finance, Contracts and Legal Matters**

1) **Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 9 of this Constitution.

2) **Contracts**



Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 10 of this Constitution.

**3) Legal Proceedings**

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

**4) Authentication of Documents**

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

All contracts entered into on behalf of the local authority in the course of the discharge of any function shall be made in writing. Such contracts must either be signed by an officer of the authority or made under the common seal of the Council attested by at least one officer authorised to do so by the Chief Executive or the Monitoring Officer

**5) Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring officer A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Chief Executive, or the Strategic Director for Law and Governance, or some other person authorised by them. The Common Seal may be affixed by physical means or by electronic means authorised by the Strategic Director for Law and Governance

## **Article 14 - Review and Revision of the Constitution**

**1) Duty to monitor and review the Constitution**

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

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

- a) observe meetings of different parts of the Member and officer structure;
- b) undertake an audit trail of a sample of decisions;
- c) record and analyse issues raised with them by Members, officers, the public and other relevant stakeholders; and

d) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

## 2) **Changes to the Constitution**

a) **Approval** Changes to the constitution, other than consequential changes which may be made by the Monitoring Officer and reported to the Constitution Commission, will only be approved by the full Council after consideration of the proposal by the Monitoring Officer.

b) **Change from a Leader and Cabinet form of executive to other arrangements** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

## **Article 15 – Suspension, Interpretation and Publication of the Constitution**

### 1) **Suspension of the Constitution**

a) **Limit to suspension** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.

b) **Procedure to suspend** A motion to suspend any rules will not be moved without notice unless at least one half of the total number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

c) **Rules capable of suspension** The following Rules may be suspended in accordance with Article 15, Section 1

All procedural Rules in Part 4 of the Constitution that are not statutory core Procedural Rules.

### 2) **Interpretation**

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

### 3) **Publication**

a) The Monitoring Officer will ensure that the Constitution is available through the Council's Web Site.

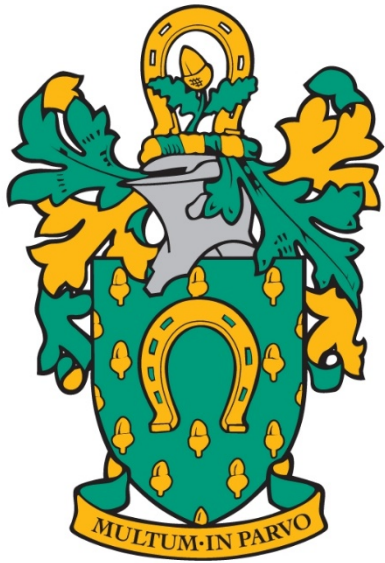
b) The Monitoring Officer will ensure that copies are available for inspection at Council Offices and libraries, and can be purchased by members of the local press and the public on payment of a reasonable fee.

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

The following parts of this Constitution constitute the executive arrangements:

- 1) **Article 6 (Overview and Scrutiny Committee)** - and the Scrutiny Committee Procedure Rules at Part 4 of the Constitution;
- 2) **Article 7 (The Cabinet)** - and the Cabinet Procedure Rules at Part 4 of the Constitution;
- 3) **Article 9 (Area Committees and Forums)** - Not applicable as there are no Area Committees;
- 4) **Article 10 (Joint Arrangements)** ;
- 5) **Article 12 (Decision making)** - and the Access to Information Procedure Rules at Part 4 of the Constitution;
- 6) **Part 3 (Responsibility for Functions)**.
- 7) **Part 8 (Members of the Cabinet and Executive Scheme of Delegation)**





# Rutland County Council

## PART 3 OF THE CONSTITUTION SCHEME OF DELEGATION

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## **SECTION 1 - GENERAL PRINCIPLES**

- 1.1 The Scheme is subject to other provisions of the Council's Constitution and in particular the parts relating to the responsibility for functions, the provisions contained in the Council's Procedure Rules and also to the roles of the officers appointed as the Council's Head of Paid Service, Monitoring Officer and Section 151 Officer.
- 1.2 Any arrangements made by the Council or Cabinet for the discharge of functions by a Committee, Sub-Committee or Officer shall not prevent the Council or Cabinet by whom such arrangements were made from exercising those functions, subject to Procedure Rule 110 (Referral of Decisions) or the provisions for the call-in of decisions in the Constitution and the Council's Procedure Rules.
- 1.3 Delegated powers may only be exercised within the Terms of Reference of the Committee or Sub-Committee exercising the power and within the framework of the Council's policy.
- 1.4 Delegated powers to purchase property, goods or services may only be exercised if provision is made in the Annual Budget or if a Supplementary Estimate has been approved.
- 1.5 All references to Acts, Orders, Regulations etc., in this Scheme shall be deemed to include references to amending or extending legislation in force from time to time.
- 1.6 No Working Party or Working Group shall have any executive powers. Their functions will be of investigation, consultation, research and reporting any recommendations to their appointing body for approval. No Working Party, or Working Group has any authority to commit the Authority to any expenditure.
- 1.7 Where a function is not reserved specifically for a Committee or Sub-Committee, it shall be deemed to be delegated to the Chief Officer responsible for the function.
- 1.8 Project Boards may be established in accordance with the Council's Project Management Framework to advise those with delegated powers in the exercise of those powers.

## **SECTION 2 - MATTERS RESERVED TO COUNCIL**

- 2.1 Local choice functions are mainly set out in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the "Functions Regulations". These functions may be, but need not be, the responsibility of the Council's Executive. This means that the Council can decide whether the function is to be the responsibility of the Executive (an 'executive function') or the responsibility of the Council (a 'non-executive' function).
- 2.2 Having regard to government guidance full Council has decided that the local choice functions will be executive or non-executive as set out in the schedule below. Where a function is allocated to the Cabinet, the Cabinet will be able to delegate decisions within that function to a committee or sub-committee of itself or to an officer. Similarly, where a function is allocated to the Council, the Council

may delegate it to a committee or sub-committee or to an officer. Where the function is not specified then this will remain the responsibility of the Council.

No.	Local Choice Function	Status of Function: 'Executive' or 'Non- Executive'
1.	Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Local Authorities Functions Regulations or specified within the terms of reference of any non-executive committee.	Executive
2.	The determination of an appeal against any decision made by or on behalf of the authority.	Non-Executive
3.	The making of arrangements pursuant to section 52 of the Education Act 2002 and the Education (Pupil Exclusions and Appeals (Maintained Schools) (England) Regulations 2002 and the Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (England) Regulations 2008 (making arrangements for appeals against exclusion of pupils).	Non-Executive
4.	The making of arrangements pursuant to section 94(1) and (4) of, and Schedule 24 to, the Schools Standards and Framework Act 1998 (making arrangements for admission appeals).	Non-Executive
5.	The making of arrangements pursuant to section 95(2) of, and Schedule 25 to, the Schools Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing bodies).	Non-Executive
6.	Any function relating to contaminated land.	Executive
7.	The discharge of any function relating to the control of pollution or the management of air quality.	Executive
8.	The service of an abatement notice in respect of a statutory nuisance.	Executive
9.	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Executive
10.	The inspection of the authority's area to detect any statutory nuisance.	Executive



11.	The investigation of any complaint as to the existence of a statutory nuisance.	Executive
12.	The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Executive
13.	The making of agreements for the execution of highways works.	Executive
14.	The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Executive
15.	The appointment of any individual: (a) to any office other than an office in which he/she is employed by the Council; (b) to anybody other than: (i) the Council; (ii) a joint committee of two or more authorities; or (iii) to any committee or sub-committee of such a body, and the revocation of any such appointment.	Non -Executive where the body exercises Non- Executive powers, the Executive where the body exercises Executive Powers and Non-Executive where there is any doubt.
16.	The making of agreements with other local authorities for placing staff at the disposal of those other local authorities.	Executive
17.	Functions under sections 106, 110, 111, 113 of the Local Government and Public Involvement in Health Act 2007 relating to local Area Agreements	Executive
18.	Unless specifically catered for elsewhere, the adoption or approval of any plan or strategy relating to the Licensing and Regulatory functions listed in Part B of Schedule 1 of the Functions Regulations 2000.	Non-Executive

### **SECTION 3 - GENERAL DELEGATED POWERS**

3.1 The General Scheme of Delegation to all Committees is contained in Part 3, Section 11 of the Council's Constitution.

## **SECTION 4 - MATTERS DELEGATED TO OFFICERS OF THE AUTHORITY**

- 4.1 The matters delegated to the Chief Executive and other Chief Officers are contained in Part 3, Section 11 of the Council's Constitution.

## **SECTION 5 – STATUTORY OFFICERS AND “PROPER OFFICER” DESIGNATIONS FOR STATUTORY PURPOSES**

- 5.1 Some officers have a personal statutory responsibility to ensure the proper conduct of the council's administrative, staffing, legal and financial affairs. These are listed below.

Head of Paid Service (the Chief Executive)	Responsible for the management of the Council's officers and their delivery of the Council's statutory duties.
Chief Finance Officer or “s.151 Officer” (Rutland County Council's Strategic Director for Resources)	Responsible for the Council's finances and ensuring the Council sets a balanced budget Must report if the Council is likely to incur unlawful expenditure
Monitoring Officer (Rutland County Council's Strategic Director for Law & Governance)	Responsible for the Council's Code of Conduct for Members. Must report if the Council is likely to act unlawfully
Director of Children Services (Rutland County Council's Strategic Director for Children and Families)	Professional responsibility for children's services, including operational matters.
Director of Adult Social Services (Rutland County Council's Strategic Director for Adult Services and Health)	Professional responsibility for local authority statutory services functions, including delivery of all operational services across Adult Social Care.
Director of Public Health (joint post with Leicestershire County Council)	Responsible for functions relating to public health

- 5.2 The following officers are authorised to undertake the duties of the proper officer as determined by the relevant requirements of the appropriate legislation. The Chief Executive acting at their absolute discretion may reallocate functions to ensure the efficient running of the Council.

<b>No</b>	<b>Act Section of Schedule</b>	<b>FUNCTION</b>	<b>PROPER OFFICER</b>
1.	LOCAL GOVERNMENT ACT 1972 S.13(3) AND S.97	Parish Trustee	Chief Executive
2.	LOCAL GOVERNMENT ACT 1972 S.83(1)	Receipt of declaration of acceptance of office	Chief Executive and Monitoring Officer
3.	LOCAL GOVERNMENT ACT 1972 S.84	Receipt of notice of resignation	Chief Executive
4.	LOCAL GOVERNMENT ACT 1972 S.88(2)	Convening a Council meeting to fill casual vacancy in office of Chair	Chief Executive
5.	LOCAL GOVERNMENT ACT 1972 S.89(1)(b)	Receipt of notice of casual vacancy in office of Councillor from two local government electors	Chief Executive
6.	LOCALISM ACT 2011 S.29(1) and LOCAL GOVERNMENT ACT 1972 S. 117	Receipt of notice and record of pecuniary interests under S.29 in respect of members and S.117 in respect of officers	Monitoring Officer

<b>No</b>	<b>Act Section of Schedule</b>	<b>FUNCTION</b>	<b>PROPER OFFICER</b>
7.	LOCAL GOVERNMENT ACT 1972 S.111	Registrar of Bonds	Section 151 Officer
8.	LOCAL GOVERNMENT ACT 1972 S.101	Statutory determinations regarding borrowing limits	Section 151 Officer
9.	LOCAL GOVERNMENT ACT 1972 S.115	Receipt of monies due from officers required to account	Section 151 Officer
10.	LOCAL GOVERNMENT ACT 1972 S.146(1)(a)(b)	Declarations and certificates relating to securities in case of transfer	Section 151 Officer
11.	LOCAL GOVERNMENT ACT 1972 S.151	The officer responsible for financial administration (Section 151 Officer)	Section 151 Officer
12.	LOCAL GOVERNMENT ACT 1972 S.191(2)	Matters relative to Ordnance Survey	Chief Executive
13.	LOCAL GOVERNMENT ACT 1972 S.210(6) & (7)	Charity functions transferred to the District Council	Chief Executive
14.	LOCAL LAND CHARGES ACT 1975 (c.76, SIF 98:2), S.19(1), Sch. 2	Local Land Charges Registrar under the Land Charges Act 1925	Chief Executive
15.	THE REGULATORY REFORM (GAME) ORDER 2007 (S.I. 2007/2007), art.6. Sch.para.1(m)	The Collection of Licence Duties	Strategic Director for Places
16.	LOCAL GOVERNMENT ACT 1972 S.223(1)	The conduct of Legal proceedings before Magistrates' Court	Section 151 Officer or Strategic Director of Law and Governance or Chief Executive
17.	LOCAL GOVERNMENT ACT 1972 S.225(1)	Deposit of documents	Chief Executive OR Monitoring Officer
18.	LOCAL GOVERNMENT ACT 1972 S.228(3) & (4)	The Proper Officer whose accounts are open to inspection by members and whose audited accounts are open to public inspection	Section 151 Officer
19.	LOCAL GOVERNMENT ACT 1972 S.229(5)	Certificate of photographic copies of documents	Any Director

<b>No</b>	<b>Act Section of Schedule</b>	<b>FUNCTION</b>	<b>PROPER OFFICER</b>
20.	LOCAL GOVERNMENT ACT 1972 S.234(1) & (2)	Authentication of Documents	Any Director
21.	LOCAL GOVERNMENT ACT 1972 S.236(9)	Service and receipt of copies of bylaws made by the County or District Council	Chief Executive
22.	LOCAL GOVERNMENT ACT 1972 S.238	Certification of bylaws	Chief Executive
23.	LOCAL GOVERNMENT ACT 1972 Sch 12 para 4(2)(b) & (3)	Signatures of Summons to Council meetings, receipt of Notices of addresses to which summons should be sent	Chief Executive
24.	LOCAL GOVERNMENT ACT 1972 s.12(a)	Certification of resolutions under the paragraph	Chief Executive
25.	PLANNING (CONSEQUENTIAL PROVISIONS) ACT 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6	Receipt of deposit of lists of protected buildings S54(4) of Town & Country Planning Act 1971	Strategic Director for Places
26.	LOCAL GOVERNMENT ACT 1972 Sch 29 para 4(1)(a) and (c)	General provisions of existing legislation, not expressly covered by preceding provisions where reference is made to specific officers; for references to Surveyor, Public Health Inspector and Medical Officer of Health except in respect of matters which can only be dealt with by registered Medical practitioners	Strategic Director for Places
27.	LOCAL GOVERNMENT ACT 1972	For references to Town Clerk or Clerk of the Council	Chief Executive
28.	LOCAL GOVERNMENT ACT 1972 S.100B(2)	Circulation of reports and agenda	Chief Executive
29.	LOCAL GOVERNMENT ACT 1972 S.100B(7)(c)	Supply of papers to the press	Chief Executive
30.	LOCAL GOVERNMENT ACT 1972 S.100C(2)	Summaries of minutes	Chief Executive

<b>No</b>	<b>Act Section of Schedule</b>	<b>FUNCTION</b>	<b>PROPER OFFICER</b>
31.	LOCAL GOVERNANCE ACT 1972 SCHEDULE 12A	Access to information	Chief Executive
32.	LOCAL GOVERNMENT ACT 1972 S.100D(1)(a)	Compilation of lists of background papers and S.100D(5)(a) Identification of background papers	Directors having responsibility for subject matter of report with the first named officer being designated in case of a joint report.
33.	LOCAL GOVERNMENT ACT 1974 S.30(5)	Public notice of publication of a Local Commissioner's report	Chief Executive
34.	REGISTRATION SERVICE ACT 1953	Registration of Births Deaths and Marriages	Strategic Director for Places
35.	REPRESENTATION OF THE PEOPLE ACT 1983 S.8	Electoral Registration Officer	Chief Executive
36.	REPRESENTATION OF THE PEOPLE ACT 1983 S.52(2)	Deputy Electoral Registration Officer	Electoral Services Manager
37.	REPRESENTATION OF THE PEOPLE ACT 1983 S.35	Returning Officer for Parish and District Council elections	Chief Executive
38.	REPRESENTATION OF THE PEOPLE ACT 1983 S.24	Returning Officer Parliamentary Elections	Mayor of Melton Borough Council
39.	REPRESENTATION OF THE PEOPLE ACT 1983 S.28	Acting Returning Officer for Parliamentary Elections	Chief Executive Melton Borough Council
40.	LOCAL GOVERNMENT AND HOUSING ACT 1989 P1.S4.1(a)	Head of the Paid Service	Chief Executive
41.	LOCAL GOVERNMENT AND HOUSING ACT 1989	Acting Head of the Paid Service in the Head of Paid Service's absence	Any Director nominated by the Head of Paid Service
42.	LOCAL GOVERNMENT AND HOUSING ACT 1989 S.5	Monitoring Officer	Strategic Director for Law and Governance
43.	LOCAL GOVERNMENT (COMMITTEES AND POLITICAL GROUPS) REGULATIONS 1990 P3, S.8	Receipt of notice of formation and membership of a political group	Chief Executive

<b>No</b>	<b>Act Section of Schedule</b>	<b>FUNCTION</b>	<b>PROPER OFFICER</b>
44.	LOCAL GOVERNMENT AND HOUSING ACT 1989 S.16	Receipt of notice of wishes of political groups as to appointments to committees and sub-committees and termination of appointments	Chief Executive
45.	LOCAL GOVERNMENT AND HOUSING ACT 1989 S.18 and Reg 14 of Local Authorities (Members' Allowances)	Receipt of notice in writing that a Councillor wishes to forgo any part of their entitlement to an allowance	Section 151 Officer
46.	The Local Authorities (Referendums)(Petitions) (England) Regulations 2011 P2 S.4(1)	Publication of 5% of local government electors for validating petitions	Electoral Registration Officer
47.	PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984	The Proper Officer for the purposes of the Public Health (Infectious Diseases) Regulations	Director of Public Health
48.	NATIONAL ASSISTANCE ACT 1948	The Proper Officer for the Purposes of Section 47	Director of Public Health
49.	LOCAL GOVERNMENT ACT 2000 S.52	Undertakings by Members and Co-opted Members to observe the Council's Code of Conduct	Chief Executive and Monitoring Officer
50.	FREEDOM OF INFORMATION ACT 2000 S 36(2) and (5)	The qualified person for the purposes of deciding whether information is exempt from disclosure to the public relating to the prejudice to the conduct of public affairs	Strategic Director for Resources and/or Monitoring Officer
51.	FREEDOM OF INFORMATION ACT 2000 S 36	Determination of all exemptions apart from those relating to the prejudice to the conduct of public affairs	Strategic Director for Law and Governance or Director or representative appointed by a Director
52.	REGULATION OF INVESTIGATORY POWERS ACT 2000	Authorising Officer and Designated Person for the use of surveillance and the acquisition and disclosure of communications data	Chief Executive or Any Director or Strategic Director for Law and Governance

<b>No</b>	<b>Act Section of Schedule</b>	<b>FUNCTION</b>	<b>PROPER OFFICER</b>
53.	THE LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2009 S 31	The Statutory Scrutiny Officer responsible for the promotion of the authority's scrutiny function and the provision of support and guidance to Members and Officers of the authority.	Democratic Services Manager
54.	GENERAL DATA PROTECTION REGULATION 2016	Data Protection Officer	Head of Legal and Democratic Services
55.	GENERAL DATA PROTECTION REGULATION 2016	Senior Information Risk Owner	Strategic Director for Law and Governance
56.	CALDICOTT REVIEW 1997	Caldicott Guardian	Strategic Director for Adult Services and Health
57.	CHILDREN ACT 2004 S 11	Local Authority Designated Officer (LADO)	Head of Safeguarding Children's Social Care

### **5.3 Deputy Proper Officer Provisions**

- 5.2.1 Returning Officer - The Chief Executive can designate an individual Officer (in writing) who is authorised to act as a Deputy Returning Officer for Elections when the Chief Executive is unable to act
- 5.2.2 In other cases where the designated Proper Officer is unable to act, the following are designated Deputy Proper Officers:
- For the Chief Executive or in their absence any Director
  - For any Strategic Director, any Director or Deputy Director
- 5.2.3 The Chief Executive is designated as Proper Officer for any purposes where no other Officer has been specifically designated. If neither the Proper Officer nor the Deputy Proper Officer is able to act the Chief Executive may designate an appropriate Officer to act as Proper Officer or Deputy Proper Officer.
- 5.2.4 If the Chief Executive is unable to exercise this power, then it shall be exercised by the Strategic Director for Resources or a second tier Officer.
- 5.2.5 The Monitoring Officer and the Section 151 officer designate their own deputy direct and are not covered by the above.



## TERMS OF REFERENCE FOR REGULATORY COMMITTEES

### SECTION 6 – AUDIT AND RISK COMMITTEE

#### **6.1 The purpose of the Committee is to undertake the County Council's responsibilities under the Accounts and Audit Regulations as follows:**

- a) to consider and approve the annual statement of accounts
- b) to ensure that the Council has a sound system of internal control which facilitates the effective exercise of the Council's functions and which includes arrangements for the management of risk
- c) to ensure that the financial management of the Council is adequate and effective
- d) to review annually the Council's system of internal control and to agree an Annual Governance Statement for inclusion in the statement of accounts
- e) to ensure that the Council has an adequate and effective internal audit function

#### **6.2 Audit Activity**

- a) To consider the Head of Internal Audit's annual report and opinion, and a summary of Internal Audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements.
- b) To approve the risk-based internal audit plan and resource requirements
- c) To consider summaries of specific Internal Audit reports as requested
- d) To consider reports dealing with the management and performance of the providers of Internal Audit Services.
- e) To consider a report from Internal Audit on agreed recommendations not implemented within a reasonable timescale.
- f) To approve the Internal Audit Charter
- g) To consider the External Auditor's Annual Letter, relevant reports, and the report to those charged with governance
- h) To consider specific reports as agreed with the External Auditor
- i) To comment on the scope and depth of external audit work and to ensure it gives value for money
- j) To liaise with the Public Sector Audit Appointments Ltd (PSAA) over the appointment of the Council's External auditor
- k) To commission work from Internal and External Audit

#### **6.3 Regulatory Framework**

- a) To review any issue referred to it by the Chief Executive or a Director, or any Council body.
- b) To monitor the effective development and operation of risk management and corporate governance in the Council.
- c) To advise and monitor council policies on 'Whistle Blowing' and the 'Anti-fraud and corruption strategy' and the Council's complaints process.
- d) To oversee the production of the authority's Annual Governance Statement and to recommend its adoption.
- e) To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.

- f) To consider The Council's compliance with its own and other published standards and controls.

#### **6.4 Accounts**

- a) To approve the annual statement of accounts. Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council
- b) To consider the External Auditor's report to those charged with governance on issues arising from the audit of the accounts.

#### **6.5 Accountability Arrangements**

- a) To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks; financial reporting arrangements, and internal and external audit functions.
- b) To report to Full Council at least annually on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.

#### **6.6 Delegations to Officers**

- a) The Section 151 Officer, in consultation with the Chair of the Committee, is authorised to make changes to the Internal Audit plan. Such changes must be reported to the Committee at the earliest opportunity.

### **SECTION 7 - CONDUCT COMMITTEE**

#### **7.1 The Committee is authorised to:**

- a) To promote and maintain high standards of conduct by Members of the authority.
- b) To assist Members of the authority to observe the authority's code of conduct.
- c) To advise the authority on the adoption or revision of a Code of Conduct.
- d) To monitor the operation of the authority's Code of Conduct for Members.
- e) To assess, consider and determine complaints of breaches of the authority's Code of Conduct, in accordance with the Council's approved procedures.
- f) To consider granting dispensations to Members from requirements relating to interests set out in the authority's Code of Conduct.
- g) To advise the Council on maintaining high standards of ethics and probity and to review all codes of conduct relating to ethic and probity affecting officers and Members.

- h) To consider reports which may come from Government, the Ombudsman or other external sources relating to standards of conduct and to make recommendations to the Council.
- i) To consider any Monitoring Officer reports relating to Members' conduct and probity.
- j) To carry out all of the functions contained within paragraphs a) to i) above inclusive in relation to parish councils within the county and their Members.

## **SECTION 8 – CONSTITUTION COMMISSION**

**8.1.** The Constitution Commission has been appointed by Rutland County Council to review, monitor, and where necessary, recommend changes to the Constitution to full Council, in consultation with the Monitoring Officer, to ensure that it is fit for purpose.

**8.2.** It will undertake this role by:

- a) Reviewing areas in the Constitution to ensure that they are fit for purpose and put forward appropriate changes;
- b) Receiving requests to review certain areas of the Constitution;
- c) Considering changes proposed by Members, Officers and Committees;
- d) Recommending proposed changes to Council for approval.

**8.3.** The Commission shall also have responsibility for oversight and direction of Member Development as guided by the adopted Member Development Strategy and will do this by receiving regular updates on training and development opportunities available for Members.

**8.4.** The Constitution Commission shall comprise of seven members and will be politically balanced. The Chairman and Members will be appointed at the Annual Council Meeting.

## **SECTION 9 - EMPLOYMENT AND APPEALS COMMITTEE**

### **9.1 Employment**

- a) To establish panels to appoint Chief Officers and Officers that are part of the Corporate Leadership Team. Such Panels to consist of three members of the committee plus the relevant Cabinet Member. Political balance applies to the panel.
- b) To consider employee procedures, including dismissal procedures.
- c) To hear, consider and determine appeals against dismissal by employees in line with procedures agreed by the Committee.
- d) The constitution of any Appeal or Hearing panels or working parties as may be required from time to time.

- e) The discharge of such human resources functions that cannot be delegated under statute to the Cabinet or have not been delegated to officers, as may be delegated by the Council from time to time.
- f) To consider and approve HR policies (this requires two thirds voting members present to approve a policy subject to its financial impact not exceeding the budget. If this cannot be achieved the policy in question will be referred to Full Council for further consideration and determination).

## **9.2 Appeals Panels**

- 9.2.1 To hear, consider and determine any other appeals made under a statutory appeals process and/or where no other appeals body has been established for the specific purpose.
- 9.2.2 The panel will consist of three members drawn from the Committee. For this purpose, officers may draw upon members in order to ensure sufficient members are available to conduct the hearing, and to avoid involving any member who was involved in the original decision which is the subject of the appeal. Political balance applies to any such panel and appropriate training will be provided in relation to the subject matter.

## **SECTION 10 - HEALTH AND WELLBEING BOARD**

The Health and Wellbeing Board (HWB) has been appointed by Rutland County Council as a statutory committee of the Local Authority. It will discharge directly the functions conferred on Rutland County Council by Section 196 of the Health and Social Care Act 2012 and any other such legislation as may be in force for the time being.

### **10.1. Aim**

- 10.1.1. To achieve better health, wellbeing and social care outcomes for Rutland's whole population, reducing health inequalities and delivering a better quality of care for people using services through the provision of:
  - a) Collaborative leadership that influences, shapes and drives a wide range of services and interventions spanning health care, social care and public health.
  - b) Strategic oversight of, and challenge to, the planning, strategy, commissioning and delivery of services across health, social care, public health, children's and young people's services and other services that the Board agrees impact on the wider determinants of health.

The World Health Organisation defines health as a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.

### **10.2. Statutory Functions**

10.2.1. Under the Health and Social Care Act 2012, the HWB has the following duties and functions:

- a) To encourage integrated working between health and social care commissioners, including arrangements under Section 75 of the National Health Service Act 2006 in connection with the provision of health and social care services.
- b) To prepare and publish successive Joint Strategic Needs Assessments (JSNA) and Joint Health and Wellbeing Strategies (JHWS) that are evidence based and supported by all stakeholders to set out Rutland's objectives, trajectory for achievement and how members of the Board will be jointly held accountable for delivery.
- c) To encourage close working between commissioners of health-related services and the Board itself.
- d) To encourage close working between commissioners of health-related services (such as housing and many other local government services) and commissioners of health and social care services.
- e) Any other functions that may be delegated by the council under section 196(2) of the Health and Social Care Act 2012.

10.2.2. The HWB has an additional responsibility derived from the amended NHS Act 2006, under which NHS England has powers to attach conditions to the payment of the Better Care Fund (BCF):

- a) The HWB is required to jointly agree plans for how BCF pooled funds will be spent to progress health and care integration in Rutland, with plans signed off by the relevant Local Authority and Clinical Commissioning Group or its successor body.

### 10.3. **Additional Responsibilities**

10.3.1. The Board has also agreed additional responsibilities which complement its statutory functions:

- a) To constructively challenge and hold to account partners (including local partners, those delivering services, projects and programmes across LLR, and those delivering services outside the ICS area that have significant Rutland implications), to ensure that their strategies, plans and services are aligned to Rutland's JHWS priorities, and to consider what is best for Rutland within their plans and actions.
- b) To have oversight of the use of relevant public sector resources across a wide range of services and interventions, with greater focus and integration across outcomes spanning health care, social care and public health.

- c) To task relevant groups, whether standing or time-limited, including the sub-groups of the HWB, to develop solutions to challenges outlined in the JSNA and JHWS.
- d) To inform the development and assure the delivery of the Rutland BCF programme.
- e) To facilitate partnership working across health and social care to ensure that services are joined up around the needs of service users.
- f) To focus resources on the agreed set of priorities for health, wellbeing and social care (as outlined in the JSNA and JHWS).
- g) To ensure alignment, where appropriate, between ICS commissioning plans and the Rutland JHWS and BCF programme.
- h) To ensure that the work of the Board is aligned with policy developments both locally and nationally.
- i) To communicate with the public about Rutland's health, care and wellbeing needs, services and developments and to use their experiences and views to inform the work of the HWB

#### 10.4. **Principles**

10.4.1. The Board agree to work to the following principles:

- a) Shared ownership of the Board by all its members (with commitment from their nominating organisations) and accountability to the communities it serves for delivering the Board's priorities.
- b) Commit to driving real action and change to integrate services and to improve services and outcomes, also by making investment decisions that support shared aims.
- c) To adapt a proportionate universalism approach that targets resources to prioritise the most vulnerable and reduce health inequalities and improve wellbeing opportunities and outcomes.
- d) Support people to maintain their independence and play a full role in looking after themselves, encouraging and enabling people to make informed healthy choices.
- e) Share success and learning to make improvements cross-organisationally for the wider benefit of Rutland.
- f) Be evidence led, open and transparent in the way that the Board carries out its work, using local data and intelligence, and listening to service users/patients and the public, and acting on what this tells us.

- g) Represent Rutland at LLR, regional and national platforms to ensure Rutland's voice is heard.

## 10.5. **Position within wider governance**

10.5.1. The Board will coordinate its work with that of the system-level LLR Integrated Care Partnership (the Health and Wellbeing Partnership), the former fulfilling the responsibilities of 'place' (Rutland) and the latter of 'system' (Leicester, Leicestershire and Rutland).

10.5.2. There will be two permanent sub-groups of the Board:

a) Children and Young People's Partnership (CYPP):

Responsible for the development and improvement of services for children and young people 0-19 years, (and to the age of 25 years for some vulnerable young people), overseeing the delivery of the agreed vision and priorities of the Children, Young People and Families Plan.

b) Rutland Integrated Delivery Group (IDG):

Responsible for health and care needs in Rutland, managing the resources available to do this and working in partnership to provide leadership, direction and assurance to the integration and enhancement of health and care services in Rutland, with a particular focus on key local change programmes contributing to this aim, notably the JHWS and BCF programme.

c) Mental Health Neighbourhood Group (MHNG)

Responsible for the delivery of the new Rutland Mental Health Neighbourhood strategy, which will be aligned to the Rutland Health and Wellbeing Board strategy. The Rutland Mental Health Neighbourhood Group will bring partners together in Rutland to lead on driving, coordinating and enabling mental health transformation within Rutland.

d) Staying Healthy Partnership (SHP):

Responsible for overseeing actions across primary prevention and the wider determinants of health. The partnership establishes a mechanism through which partners can collaborate strategically on primary prevention, wider determinants and health inequalities.

10.5.3. The Terms of Reference for each of these sub-groups are agreed by the Health and Wellbeing Board and are reviewed when required.

10.5.4. Additional sub-groups may be formed on a time-limited basis at the request of the Board to address specific issues or undertake specific pieces of work.

Where additional sub-groups are formed, the Chair of the Board will appoint a Chair for the sub-groups and agree reporting requirements and timescales.

- 10.5.5. Other temporary or permanent groups taking forward relevant work may also be asked to provide updates to the HWB.

## 10.6. **Safeguarding**

- 10.6.1. The Board work in line with the agreed protocol in place between the Leicestershire & Rutland Children's Safeguarding Board (LRCSB), the Leicestershire & Rutland Safeguarding Adults Board (LRSAB) and the HWB. The protocol outlines the relationship between the Boards, how safeguarding shall be taken into account within the business of the HWB, and how health & wellbeing shall be taken into account within the business of the LRSCB and the LRSAB.

- 10.6.2. The protocol shall be approved by both the Board and by the LRSCB and the LRSAB and reviewed at least three yearly.

## 10.7. **Membership**

- 10.7.1. The minimum membership of the Board shall consist of the following voting members:

- Two representatives from the Leicester, Leicestershire and Rutland Integrated Care Board or its successor body. (2)
- Two local elected representatives (2) at least one to be the Portfolio Holder for Health.
- The Director of Adult Services and Health for Rutland County Council. (1)
- The Director for Children and Families for Rutland County Council. (1)
- The Director of Public Health for Rutland County Council. (1)
- One representative of Rutland Healthwatch. (1)
- One representative of NHS England. (1)
- The Leicester, Leicestershire and Rutland Integrated Care Board Clinical Place Lead (1) (Non statutory member)
- One senior representative of the Leicestershire Partnership Trust. (1) (Non statutory member)
- One representative from the Voluntary and Community Sector (1) on behalf of this sector. (Non-statutory member)
- One representative from a Registered Social Landlord on behalf of social landlords. (1) (Non statutory member)
- One representative from Leicestershire Constabulary. (1) (Non statutory member)
- One representative of current and veteran Armed Forces. (1) (Non statutory member)



- 10.7.2. and such other members as the Board thinks appropriate, including, but not limited to: - additional system and place representatives from neighbouring areas, voluntary sector representatives; clinicians; and provider representatives, to be added to the Terms of Reference at the next review point.
- 10.7.3. Meetings may also be attended by non-members, bringing agenda items or supporting with particular skills and knowledge. They are non-voting.
- 10.7.4. Members are kindly asked to attend all HWB meetings. All members can appoint a maximum of one deputy to attend meetings by exception in their absence.
- 10.7.5. Members (and their deputies where required) will act with the necessary delegated responsibility from their organisation and take decisions on behalf of that organisation in relation to the work of the Board. It is acknowledged that resource allocation and formal approval will need to be sought from the members' respective governing bodies.

## 10.8. **Voting**

- 10.8.1. All members of the Health and Wellbeing Board are allowed to vote (unless the County Council directs otherwise).
- 10.8.2. Rutland County Council's Meeting Procedure Rules in relation to voting apply; however, it is hoped that decisions of the Board can be reached by consensus without the need for formal voting.
- 10.8.3. Decisions can be taken by the Chair where necessary for reasons of urgency outside of formal meetings. Any decisions taken outside of formal meetings shall be recorded at the following meeting along with the reasons for the urgency and the basis for the decision.
- 10.8.4. Under current legislation, decisions may only be formally taken in meetings held face to face. Decisions in principle can be taken during virtual meetings and carried forward to the next in-person HWB meeting for ratification.

## 10.9. **Standing Orders and Meetings**

- 10.9.1. The Access to Information Procedure Rules and Meeting Procedure Rules (Standing Orders) laid down by Rutland County Council will apply with any necessary modifications including the following:
  - a) The Chairperson will be Rutland County Council's Portfolio Holder for Health; the vice-chair will be elected from one of the other statutory members of the Board.
  - b) The quorum for a meeting shall be a quarter of the membership including at least one elected member from the County Council and one representative of the East Leicestershire and Rutland Clinical Commissioning Group/LLR Integrated Care Board.

- 10.9.2. The business of the Board will be supported by Officers of the Board, the Rutland Consultant for Public Health and the Health and Wellbeing Integration Lead at Rutland County Council.
- 10.9.3. Administration support will be provided by Rutland County Council.
- 10.9.4. There will be standing items on each agenda to include:
1. Declarations of interest
  2. Minutes of the previous meeting
  3. Matters arising
  4. JHWS, JSNA and BCF update
  5. Updates from each of the subgroups of the Board
- 10.9.5. Meetings will be held online and in public at least quarterly (4 times a year), unless members agree otherwise, or as guided by decision-making requirements or any pandemic-related guidelines in force. In particular, significant decisions must currently be taken in person.
- 10.9.6. Public meetings will be up to three hours in duration.
- 10.9.7. The Board may also meet for workshops or seminar sessions and for Board learning and development. These meetings, to include an annual review of the JSNA and JHWS, will be informal and not held in public, although outcomes will be made public (e.g., as relates to the JSNA and JHWS) as part of subsequent main Board meetings.
- 10.10. **Review**
- 10.10.1. These Terms of Reference will be reviewed at least annually, and more frequently where circumstances dictate.

## **SECTION 11 - PLANNING AND LICENSING COMMITTEE**

### **11.1 Planning**

- a) The determination of all and any planning, listed building, advertisement or other allied applications and functions not specifically delegated to officers;
- b) Any agreement regulating development or use of land under Sections 106 and/or 106A of the Town and Country Planning Act (TCPA)1990;
- c) Any enforcement powers under any legislation relating to town and country planning or associated matters;
- d) Any formal comment or view on applications or proposals to be determined by any Statutory Body and government departments relating to matters within the remit of the Committee;
- e) Making any Direction, Order or issuing or serving any Notice under any legislation relating to town and country planning; and

- f) Any function under the Planning (Hazardous Substances) Act 1990 or the Planning (Listed Buildings and Conservation Areas) Act (LBA) 1990.

## **11.2 Licensing**

- a) Except in relation to the statement of Licensing Policy, to discharge all functions conferred upon the Council as licensing authority under Licensing Act 2003.
- b) Except in relation to the statement of Licensing Policy, to discharge all functions conferred upon the Council as licensing authority under Gambling Act 2005.
- c) To exercise all other functions relating to licensing and registration including taxi, gaming, entertainment, food, scrap metal dealers and other miscellaneous licensing.
- d) To hear and determine licensing applications and appeals where objections and/or representations have been received in relation to any of the above functions.
- e) Any other matters relating to licensing which may be referred to the Committee for consideration.

## **11.3 Licensing Sub-Committees**

- a) To establish Panels (sub-committees) to determine matters that do not sit within the scope of delegation to officers, usually where representations have been received against a grant of a licence, or from the applicant against intended refusal or revocation of a licence/registration.

## **11.4 Commons Registration**

- a) To exercise all those functions and responsibilities relating to common land, town and village greens under the Commons Act 2006

## **11.5 Highways Use and Regulation**

- a) To exercise all those functions and responsibilities relating to highways and rights of way under the Highways Act 1980 and Wildlife and Countryside Act 1981

## **11.6 Health and Safety**

- a) All those functions and responsibilities under any of the “relevant statutory provisions” within the meaning of Part 1 of the Health and Safety at Work Act 1974 to the extent that those functions are discharged otherwise than in the authority’s capacity as an employer

## **11.7 Delegations to Officers**

11.7.1 The Strategic Director for Places, Planning Services Manager or Nominated Deputy is authorised to deal with the following matters:

- a) Any application under the TCPA 1990, LBA 1990, the Planning (Hazardous Substances) Act 1990, the Control of Advertisements Regulations 2007 and the determination and expression of the Council’s views where the Council, as local planning authority, is a statutory or other consultee and the making of observations

on proposals made by or being determined by any other body subject to the following exceptions:

- i. The applicant is the Council or someone acting as applicant on its behalf, with the exception of minor proposals.
  - ii. An application is submitted by or on behalf of a Rutland County Councillor, or an Officer of the Council directly or indirectly involved in planning work, a member of the Council's Corporate Leadership Team or any other officer where the Strategic Director for Places considers that the application should be determined by the Committee in the interests of openness and transparency. Other than Prior Notifications, applications relating to trees, discharge of conditions, Lawful Development Certificates and such other matters as the Strategic Director for Places in consultation with the Monitoring Officer deem appropriate, including where necessary to ensure the Authority is able to ensure that statutory deadlines are met
  - iii. An application which has been requested by a Member to be determined by the Committee (which must include the reason for the request, and the Strategic Director for Place considers that the reasons given are sufficient) shall be subject to specific additional assessment by the Operational Strategic Director for Places or the Development Control Manager, in consultation with the Chairman or Vice-Chairman of the Planning and Licensing Committee, who will decide whether the application should go to that Committee.
  - iv. An application which officers consider would normally be approved under delegated powers, but which has been submitted by a Member or Officer of the Council acting as an agent, shall be subject to specific additional assessment in consultation with the Chairman or Vice-Chairman of the Planning & Licensing Committee.
  - v. There is an Officer recommendation of approval which is materially contrary to the National Planning Policy Framework and/or the Development Plan.
  - vi. There is an Officer recommendation of approval contrary to a previous refusal by the Planning and Licensing Committee and the policy framework has remained substantially unchanged since the refusal.
  - vii. Material planning objections have been received from a town/parish council or local resident, unless it is considered upon assessment that the development will result in no significant adverse impact. Such assessment to be carried out in consultation with the Chairman or Vice-Chairman of the Planning and Licensing Committee.
- b) All functions, applications and powers in respect of enforcement. Any decision to issue an enforcement notice, serve an injunction, issue a stop notice, issue a planning enforcement order, or serve a discontinuance notice shall be carried out in consultation with the Chair or Vice-Chair of the Planning & Licensing Committee.
  - c) All functions, applications and powers under The Hedgerow Regulations 1997, Tree Preservation Orders and Trees in Conservation Areas under the TCPA 1990 and Part 8 (High Hedges) of the Anti-Social Behaviour Act 2003.
  - d) To consult and respond to consultations from neighbouring authorities, government departments and other bodies on all day to day matters.

- e) To determine applications to discharge conditions on any planning or related applications
- f) To exercise powers under the General Permitted Development Order, the Development Management Procedure Order, any other such Regulations present and future and all directions and prior notifications in these Orders.
- g) To formulate conditions and reasons for refusal the substance of which has been determined by Committee
- h) Any certificate of existing or proposed lawful use or development under the TCPA 1990
- i) To negotiate, agree and where appropriate amend terms of legal agreements and secure their fulfilment
- j) To defend appeals against the Council's decisions and to represent the council at Hearings, Inquiries and the Courts
- k) To decline to determine any application pursuant to Section 70(A) of the TCPA 1990
- l) Determination of any matter under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and any similar or successor regulations
- m) Any application for a certificate of appropriate alternative development under Section 17 of the Land Compensation Act 1961 (as amended)
- n) Determinations on overhead lines matters under Section 37 of the Electricity Act 1989 and subordinate Regulations.
- o) All Officers in Development Control team are authorised to enter onto land for any purpose permitted by any provision under TCPA 1990, LBA 1990 or any other legislation relating to town and country planning

- 11.7.2 The Strategic Director for Places is authorised to deal with the following matters:
- a) The agreement and operation of protocols, management agreements and/or Service Level Agreements
  - b) The determination of applications for licences where no objections are received. This includes all applications made under the Licensing Act 2003 and Gambling Act 2005.

11.7.2 Delegations set out in Part 3 also apply.

## **SECTION 12 - DELEGATION TO OFFICERS - GENERAL**

### **Officer Scheme of Delegation**

#### **12.1 Introduction**

- 12.1.1 This scheme has been adopted by Rutland County Council and sets out the extent to which the powers and duties of the Council are delegated to officers under the Local Government Act 1972, the Local Government Act 2000 and all other powers enabling

delegation to officers. It is adopted with the intention of giving a streamlined, clear and simple decision-making process. It should be interpreted widely.

- 12.1.2 Under this scheme officers must keep Members properly informed of action arising within the scope of these delegations. Officers must liaise closely with the relevant Portfolio Holder on executive functions and the relevant Chairman of the regulatory committee when the matter falls within the remit of that committee.
- 12.1.3 All references to legislation shall be deemed to include any subsequent amendments to such legislation.
- 12.1.4 Under section 101 of the Local Government Act 1972 the Council may authorise an officer of the authority to commission and monitor work for and on behalf of the Council by people who are not officers of the authority and such people will be bound by this scheme, and the obligations contained in it, at all times when engaged on Council business.
- 12.1.5 References to powers of 'the Council' include functions of Cabinet.
- 12.1.6 Any reference to a function/service area shall be deemed to include a reference to all statutory powers relating to that function and shall be deemed to include authority to exercise all such powers.
- 12.1.7 All delegations are intended to be cumulative. Each delegation may be read on its own unless it is specifically expressed to be subject to another.
- 12.1.8 The specific delegations should not weaken the general delegations and are included to ensure that it is clear that those powers have been granted.
- 12.1.9 All delegations to officers are subject to:
- Statutory requirements
  - Contract Procedure Rules
  - Financial Procedure Rules
  - Consideration of the policies and plans of the Council
  - The Employee Code of Conduct and adopted protocols
  - Any financial limits set out in any budget agreed by Council and in accordance with Financial, Contract and Property Procedure Rules
  - The Budget and Policy Framework set by Council and any other Council policy having regard to any report by the Head of Paid Service, the Monitoring Officer or the Officer designated under section 151 of the Local Government Act 1972
  - Any provision contained within this Constitution
- 12.1.10 Where an officer has delegated powers, the Council or the Cabinet or a Committee (as appropriate) can still exercise that power in a particular case if it considers it appropriate to do so. Equally it is always open to an Officer not to exercise delegated powers but to refer the matter as appropriate.

## **12.2 Exclusions**

12.2.1 This Scheme does not delegate:

- Any matter which by law may not be delegated to an officer
- Any matter which is specifically excluded from delegation by this scheme, by a decision of the Council, the Cabinet/Executive or a Committee or Sub-Committee.

### **12.3 Authorisations to other Officers**

12.3.1 Officers with delegated powers may in writing authorise another officer or officers to exercise those powers. Such authorisations may be subject to limitations and conditions. The officer with the delegated powers must keep a register of all authorisations granted. Copies must also be sent to the Democratic Services Manager.

12.3.2 In relation to the exercise of the authority in relation to budgets the Agresso system will contain the definitive list of budgetary authority in addition to any specific written delegations provided by either officers, committee, Cabinet or Council.

### **12.4 Reserve Delegations**

12.4.1 The delegated powers held by a post may be exercised by the line manager of that post (or by their line manager) if:

- that post is vacant
- the post-holder is not at work for any reason

12.4.2 This does not apply to Proper Officer appointments

### **12.5 Consultation**

12.5.1 Officers shall consult as appropriate and have due regard to the advice given. If for any reason it is not practical to consult a person required to be consulted in the exercise of a delegation then the person with the delegated power must consult someone else whom he/she considers to be an appropriate substitute. In particular, consultation must take place with legal, finance and human resources as appropriate.

### **12.6 Restriction on delegations to Chief Officers/Deputy Chief Officers**

12.6.1 Delegations to Chief Officers/Deputy Chief Officers shall not be exercised if the Head of Paid Service, or a Director, or the Monitoring Officer, or Section 151 Officer, has given a direction to that effect.

12.6.2 The Chief Executive may consider in respect of any matter that the delegated authority should not be exercised and that it should be referred for consideration to the appropriate Cabinet, Committee or Health and Wellbeing Board.

12.6.3 In the absence of the Chief Executive the Directors may exercise any delegated power possessed by the Chief Executive

12.6.4 In the absence of a Director, another Director or Deputy Director may exercise any delegated power possessed by that Director.

**12.7 Transfer of Functions**

12.7.1 Where the name of a post is changed, or its relevant functions become vested in a different post, any delegated powers possessed by the post shall be retained by the renamed post or transferred to the different post as the case may be. This includes any delegated powers vested in a post by resolution of the Council, the Cabinet or a Committee/Sub Committee.

12.7.2 Where a service is restructured, the Chief Executive and/or relevant Director shall have authority to re-allocate the delegated powers to other posts and shall give notice of this to the Monitoring Officer.

**12.8 Proper Officers**

12.8.1 In addition to the specific powers delegated to Corporate Leadership Team, local government legislation specifies that certain officers must have responsibility for a number of specific functions as set out in the various acts of parliament. Each officer with such responsibility is known as the “Proper Officer” in relation to that task. The list of Proper Officers is approved by the Council and is attached at Appendix One

12.8.2 The Council is also required to appoint certain officers known as Statutory Officers to take responsibility for functions specified in local authority legislation. These functions are in addition to the Scheme of Delegation and are set out below.

**12.9 General Powers delegated to Corporate Leadership Team**

	<b>Delegation</b>	<b>Exception</b>
12.9.1	To exercise within approved budgets all matters of day to day administration and operational management of the services and functions for which they are responsible.	
12.9.2	To take all necessary action to achieve and implement the objectives and actions set out in approved policies, strategies, plans and decisions of Council or committees.	
12.9.3	To make orders, sign licenses and notices relevant to their service areas.	
12.9.4	To make decisions on any objection submitted which relates to a proposal, application or other matter within their service area, subject to Committee Terms of Reference.	



12.9.5	To take all relevant regulatory and enforcement action in connection with the exercise of functions, including without limitation, issuing any form of Notice, Order, Caution, an injunction or authorising the commencement of proceedings in relation to such matters. Service of any statutory notices affecting their service area.	
12.9.6	To exercise the Council's powers to enter land and premises (and to authorise others to enter land and premises) for the purposes of any of the Council's functions which the officer has responsibility for enforcing or investigating.	
12.9.7	To instruct the Council's Legal Service with respect to any legal matter concerning their department or services in consultation with the Monitoring Officer.	
12.9.10	To exercise the Council's power to publish information about its services including deciding the content of any publication.	
12.9.11	To respond to consultations including statutory consultations if there is not sufficient period of time to take to the relevant formal body for their comments.	
12.9.12	To decide the terms upon which services will be provided to the public (which may include providing services on different terms to different individuals or classes of individuals).	
12.9.13	The employment of all employees below Outside SMT level including determining the most appropriate means of recruitment and selection	
12.9.14	The decision to recruit permanent, temporary or agency staff within the services budget	
12.9.15	Formulation, review and revision of person specifications and job descriptions for posts within their service areas	
12.9.16	Application of conditions of service including the authorisation of leave of absence, payment of honoraria and scales of pay	

12.9.17	Suspension or dismissal of employees at or below Head of Service level	
12.9.18	To authorise payments for overtime in accordance with Council procedures.	
12.9.19	To deal with procurement matters acting at all times within the Council's Financial and Contract Procedure Rules	
12.9.20	To acquire, dispose of, grant and obtain rights in land and premises on such terms and conditions as considered appropriate	Limitations are as set out in the Financial Procedure Rules
12.9.20	To acquire, dispose of, grant and obtain rights in vehicles and other equipment and property	Limitations are as set out in the Financial Procedure Rules
12.9.21	To commission goods, services and works within approved budgets.	
12.9.22	To deal with media enquiries and press releases in conjunction with the Communications Officer who will contact the relevant Members.	
12.9.23	To represent the views of the Council in responding to consultations with the Council by any outside body where it is expedient to do so or where the period for a response does not allow the consultation paper to be reported to Members, subject to contacting the relevant Portfolio Holder.	Where the matter is politically contentious (as determined by the Leader/Deputy Leader) it must subsequently be reported to the next Cabinet/Council as appropriate.
12.9.24	To work with partners to achieve and implement the objectives and actions set out in the approved Corporate Plan, policies, strategies or other plans.	
12.9.25	Responding as the Responsible Authority within responsible service area	
12.9.26	To authorise Inspectors, officers and persons required to perform statutory duties, including the issuing of fixed penalty notices, the inspection of premises and the issuing of notices	

**Specific Delegations**

**12.10 Chief Executive Officer**

	<b>Delegations</b>	<b>Exceptions</b>
12.10.1	In accordance with the strategies, policies and priorities of the Council and the general conditions of this Scheme, to exercise overall responsibility for corporate management and operational issues (including overall management responsibility for all staff)	
12.10.2	To do, or authorise to be done, any act or thing necessary to effect any decision of the Council	
12.10.3	To determine the list of politically restricted posts within the Council and to issue certificates under Section 3 of the Local Government and Housing Act 1989	
12.10.4	To express the views of the Council with regard to Local Government and the functions associated with it, within the general policy laid down from time to time by the Council or its Committees and to act thereon	
12.10.5	<p>To take any urgent action necessary in the event of a civil emergency and deal with matters relating to civil protection/emergency planning arising from the Council's powers and duties under the appropriate legislation.</p> <p>These powers are only to be used to address issues that directly relate to the civil emergency and the recovery from that emergency. All other decisions should be made using either powers contained elsewhere in the Scheme of Delegation or through Council, Cabinet or Committee as appropriate”</p> <p>A log of all decisions relating to the emergency will be kept and circulated regularly to all Councillors</p>	

12.10.5A	To take any action necessary action in relation to executive functions on the ground of urgency, efficiency, or cost where the Council has not elected a leader or deputy leader and the posts are vacant.	
12.10.6	If there is an urgent need for a commercial decision, the Chief Executive Officer, following consultation with the Leader and/or Deputy Leader shall make the decision and endorsement will be sought from the Cabinet or Council as appropriate.	
12.10.7	To consider and report on any report of the Local Government Ombudsman or the Housing Ombudsman and to decide on and implement the action to be taken and to approve and make compensation payments on the recommendation of the Ombudsman whether or not a budget exists	Decisions above £5000 must be decided by Cabinet
12.10.8	To implement or remove shared services with another local authority or public sector body by taking any action necessary to facilitate the arrangements including entering into and terminating agreements and granting delegations.	Subject to any agreements being within existing delegated powers and budget where it is proposed to grant and within existing budgets where it is proposed to remove such an arrangement.
12.10.9	To make authorisations of officers from services at Rutland County Council to carry out appropriate statutory powers within another Local Authority.	
12.10.10	To issue/grant such authorisations as may be necessary to enable any employee to undertake with full legal force the full range of their duties subject to such authorisation remaining only in force until the next ordinary meeting of the Committee which has authority to issue/grant such authorisations.	
12.10.11	To determine all staffing matters (within approved budgets) including but not limited to:	Major restructures (as determined by the Leader/Deputy Leader) should be determined by Council

	(i) determining matters relating to structure (additions, reductions post title changes and other changes to the establishment) (ii) the appointment, dismissal, suspension or discipline of staff save that in relation to the Chief Executive Officer and any of the Chief Officers	Suspension of Monitoring Officer and Section 151 Officer limited to suspension for a maximum of 2 months.
12.10.12	To deal as Parish Trustee, with applications for dispensation under Section 97 of the Local Government Act 1972 unless they are of such a sensitive nature as to require them being considered by the Cabinet.	
12.10.13	To make and revoke Member appointments to outside bodies in consultation with the Leader.	
12.10.14	To approve expenditure in pursuance or determination of any employment related disputes including settlement agreements	
12.10.15	To amend the Polling Place Scheme between reviews.	
12.10.16	In common with the Monitoring Officer in consultation with the Chairman of Council to decide on any application for extended absence by a Councillor.	
12.10.17	Amend and update any policies in line with changes to employment legislation/regulation. Members of the Employment and Appeals Committee should be advised in writing. For the avoidance of doubt this applies to procedures and policies that Members have previously approved	

### 12.11 Strategic Director Children and Families

	Delegations	Exceptions
12.11.1	In accordance with the strategies, policies and priorities of the Council and the general conditions of this Scheme, to exercise the Council's functions relating to Children's Services, including social care and intervention services for children and young people,	

	adoption, youth offending residential establishments, schools, further education, the youth service, care packages for children and young people.	
12.11.2	Following consultation with the Portfolio Holder for Children and Young People's Services to agree minor amendments to the Local Management of Schools Scheme	
12.11.3	To exercise any of the Chief Executive Officers delegations in their absence.	
12.11.4	To arrange care for Children and Young Persons in need and in response to the directions of the Court, including those young persons in transition.	
12.11.5	To prepare reports to the Court relating to care proceedings.	
12.11.6	To report to the Portfolio Holder for Children and Young People's Services and OFSTED, as appropriate, the death of a child in care.	
12.11.7	Power to give approval to County pupils and students attending schools and colleges outside the County and authorisation of recoupment charges.	
12.11.8	To agree allocation, transport and attendance of pupils and welfare of schools, colleges and other establishments where those powers are not delegated to Governing and Managing Bodies, Heads and Principals.	
12.11.9	To allocate responsibility allowances within the approved scheme where those powers are not delegated to Governing Bodies	
12.11.10	To exercise the powers and duties through authorisation of the Education Welfare Officer under Sections 443 and 444 of the Education Act 1996.	
11.11.11	Power to apply approved arrangements for centrally appointed teachers.	
12.11.12	Power, in consultation with the Portfolio Holder for Children and Young People's Services to approve claims for compensation up to a maximum of £1,000 in those cases which are not covered by the County Council's insurance.	

12.11.13	Power to implement payments and make all necessary arrangements depending on local circumstances, for the supply of meals to pupils eligible for free school meals.	
12.11.14	Power to publish annually information required by the Education Act 1996.	
12.11.15	Power to authorise appropriate transport arrangements where necessary in cases where there has been a difficulty or embarrassing pupil history at a school.	
12.11.16	Power to authorise amendments to Instruments of Government for schools under the responsibility of the Local Authority.	
12.11.17	To respond to National Curriculum Consultation Documents where the timescale for consultation does not allow consideration of responses by the appropriate body.	
12.11.18	Power to give grants to youth organisations to cover equipment, maintenance and rent of premises, not exceeding £1,000 to any one organisation per year and the authorisation of grants for Youth Leaders and members of organisations attending approved courses, not exceeding £200 in any one case.	
12.11.19	To deal with day-to-day management of property under the control of the Services for Children department including location of mobile classrooms and property consideration of requests by Governors for disposal of small pieces of land.	
12.11.20	Following consultation with the relevant Portfolio Holder to agree minor amendments to the Local Management of Schools Scheme.	
12.11.21	Power to make arrangements to comply with the Local Authority duty under Section 19 of the Education Act 1996 to make exceptional provision of education otherwise than at school, through service provision based on a minimum of 25 hours per week education.	
12.11.22	To deal with all matters under Part IV of the Education Act 1996 relating to special educational needs provision for children in the County.	
12.11.23	To arrange appropriate care for persons in need, including young persons in transition.	

12.11.24	To prepare reports to Courts relating to individuals as requested by the Court.	
12.11.25	To report to the Portfolio Holder , the Schools Commissioner and the Office for Standards in Education, Children’s Services and Skills , as appropriate, significant events relating to persons receiving services provided or arranged by the Department.	

## 12.12 Strategic Director for Adult Services and Health

12.12.1	In accordance with the strategies, policies and priorities of the Council and the general conditions of this Scheme, to exercise the Council's functions relating to Adults Services, including social care and intervention services for adults and care packages.	
12.12.2	To receive persons into the Guardianship of the Authority under the Mental Health Act.	
12.12.3	To apply to the Courts for the displacement of the nearest relative or to the Court of Protection under the Mental Health Act.	
12.12.4	Payment of grants and negotiation of Service Level Agreements with Voluntary Organisations .	
12.12.5	To report to the Portfolio Holder and the Care Quality Commission, as appropriate, significant events relating to persons receiving services provided or arranged by the Department excluding the expected death or natural illness of elderly persons.	
12.12.6	In accordance with the strategies, policies and priorities of the Council and the general conditions of this Scheme, to exercise the Council's functions relating to Adults, including social care and intervention services for adults.	
12.12.7	To deal with day-to-day management of such property under the control of the Services for People that fall within the Directors area of responsibility.	
12.12.8	To administer the day-to-day arrangement of the following functions under Housing legislation:  a) Homelessness  b) the Council’s Housing waiting list	



	c) Shared Ownership	
12.12.9	To prepare all legal documents associated with the provision of housing and the administration of social service functions	

### 12.13 Strategic Director for Places

12.13.1	In accordance with the strategies, policies and priorities of the Council and the general conditions set out in this Scheme, to exercise the Council's functions with regard to Libraries, Museums, Archaeology, Archives and the Arts Town and Country Planning, Highways, Transportation, the Environment, Waste Disposal, Waste Management, Trading Standards, Consumer Protection, Animal Health and Welfare, Fire and Rescue, Emergency Planning and Economic Development, Consumer Protection, Environmental Health, Pest Control, Health and Safety, Food Safety, Drainage, Cemeteries and Burial Grounds under the control of the Council, Sunday Trading, Animals, Pollution, Emergency Planning, Gypsies and Travellers, Building Control, Anti-Social Behaviour Act(s) and other functions as may be allocated to the role from time to time.	<p>Withdrawal or major modification of public facilities should be determined by Cabinet</p> <p>Approval of planning applications and proposals in accordance with the Development Plans where objections are raised by statutory consultees or/and have more than four individual representations raising planning related objections;</p> <p>Approval of minerals and waste applications requiring Environmental Impact Assessments;</p> <p>Approval of applications for County Council development where no more than four individual representations raising planning-related objection are received and the Strategic Director for Places determines, in consultation with the Chairman of the Planning and Licensing Committee, that the application should be</p>
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		determined by the Committee.
12.13.2	To add small schemes (less than £50k) to the capital programme on the condition that all decisions are reported in the Quarterly Finance Report	
12.13.3	To agree variations from the total amount of developer contributions required by agreements made under section 106 TCPA 1990 or in accordance with Supplementary Planning Documents (SPD) up to and including £50,000	Variation must not exceed 20% for all developments except for affordable housing which is subject to a Cabinet proposal dated 19 March 2013
12.13.4	To agree variations of payment of developer contributions of any amount where:- a) affordable housing payments from developments of one or two dwellings are deferred until completion or occupation (in accordance with Cabinet Decision No 831 of 2012/13), provided that the full affordable housing contribution still has to be paid by that time; or b) where development of a single new dwelling or annexe is within the curtilage of the existing family home and is to be occupied for up to seven years by a direct family member or carer with no transfer of ownership, with both properties remaining in direct family ownership (in accordance with Cabinet Decision No 831 of 2012/13); or c) the payment is capped to anticipated CIL levels pending the introduction of CIL (in accordance with Cabinet Decision No 830 of 2012/13)	
12.13.5	To certify interim and final adoption certificates for highways built to standards specified by the Council and put forward for adoption	
12.13.6	To make minor changes to Traffic Regulation Orders in consultation with the ward Member(s)	
12.13.7	To make amendments to approved highway schemes subject to consultation with the Portfolio Holder	

	To substitute highway schemes in place of the approved programme where it is not possible to progress an approved scheme within the year, subject to there being no change in the approved budget and subject to consultation with the Portfolio Holder	
12.13.8	To carry out a periodic review of housing needs under S.8 of the Housing Act 1985	
12.13.9	To authorise officers to enter premises in order to carry out duties	
12.13.10	To administer the day to day arrangement of the following functions under Housing legislation  a) Heating Grants, Improvement Grants b) Improvement Notices c) Slum Clearance d) Overcrowding e) Houses in multiple occupation and common lodging houses f) Unfit Housing	
12.13.11	To authorise Inspectors, officers and persons required to perform statutory duties, including the issuing of fixed penalty notices, the inspection of premises and the issuing of notices.	
12.13.12	To arrange for the day-to-day management of Consumer Protection, Control of Environmental Health, Pest Control, Health and Safety, Food Safety, Drainage, Cemeteries and Burial Grounds under the control of the Council, Sunday Trading, Animals, Pollution, Emergency Planning, Gypsies and Travellers, Community Safety and Anti-Social Behaviour.	
12.13.13	To undertake the functions of the Council as Weights and Measures authority by virtue of  (a) Section 8(2) Customs and Excise Management Act 1979 (as amended)  (b) Section 169 Licensing Act 1964 (as amended)  (c) Part 8 Enterprise Act 2002	

	(a) Tobacco Advertising and Promotion Act 2002	
12.13.14	To approve drainage of buildings in combination	
12.13.15	To take all appropriate action under statute to abate Environmental Nuisance including requiring culverting of watercourses, dealing with watercourses, ponds and sanitary appliances	
12.13.16	To carry out, in accordance with Statutory Powers available to this Authority, the maintenance of all registers, issuing and making representations with regard to all Licences or Consents and exercising associated control and day to day administration, inspection of premises including powers of entry (including obtaining warrants), service of notices and execution of works in default, compliance on behalf of owners or occupiers.	
12.13.17	Provided always that any such matters which relate to infectious diseases and of food poisoning should be carried out in consultation with a medically qualified proper officer or which relate to meat hygiene for which the Council has appointed an official veterinary surgeon.	
12.13.18	To carry out all powers and duties of the Council contained in Statutes relating to matters delegated to the Strategic Director for Places above.	
12.13.19	Day to day grounds management and maintenance	
12.13.20	To make observations and responses in relation to planning policy consultation documents and to make planning policy related submissions in circumstances where it is not practicable or appropriate to obtain formal Committee approval in advance.	
12.1321	To make minor wording and other amendments to planning policy documents in the course of their preparation to correct errors, to update their content and to ensure consistency.	

12.13.22	To administer the Building Act 1984 and Building regulations, make decisions on applications and exercise the Council's powers, duties and responsibilities thereunder, including the issuing of notices, execution of work and recovery of expenses and authorisation of approved inspections and to implement and administer the duties of the council in respect of the receipt of Approved Inspectors and public bodies notices and certificates.	
12.13.23	To be the designated Proper Officer who will undertake the specific responsibilities for ensuring the duties stated within the Counter Terrorism and Security Act 2015 (CTSA) (in particular Section 36) are upheld by the Council and have delegated authority to do so.	

#### 12.14 Strategic Director of Resources

12.14.1	To determine whether an employee who has left the employment of the Councils shall be granted early release of pension subject to approval of the budgetary implications.	
12.14.2	To act as the Section 151 Officer for the Council in accordance with the duties set out in the legislation.	
12.14.3	To approve the Draft Statement of Accounts prior to consideration by External Audit.	
12.14.4	After consultation with the relevant Portfolio Holder to authorise the write off of bad debts	Approval limit of £2,500. Larger debts will be included in a report for information to the Cabinet.
12.14.5	To authorise any amendments to the list of named officers that may prove necessary during the course of the financial year in relation to the duties identified in accordance with s.223 of the Local Government Act 1972.	
12.14.6	Changes to the Audit Plan in consultation with the Chair of Audit and Risk Committee	Changes must be reported to Audit and Risk Committee at the earliest opportunity

12.14.7	To arrange the Council's borrowing	
12.14.8	To effect Loan Debt Management, including taking up and repayment of loans and approval of terms	
12.14.9	To implement rent reviews in accordance with Valuer's instructions	
12.14.10	To invest surplus funds	
12.14.11	To administer all matters relating to Housing, Council Tax and Rating administration including billing collection recovery administration of benefits representation at Court and Tribunals (in consultation with the Chief Executive where appropriate) determination of exemptions maintenance of the valuation list refunds and relief	
12.14.12	To collect revenues and disbursements from the collection fund and general fund.	
12.14.13	To administer Pt.XIV of the Housing Act 1985 – Housing Advances	
12.14.14	The functions of the Council in relation to the naming of streets and numbering of houses	
12.14.15	To undertake the necessary work to approve the National Non Domestic Rates (NDR) 1 form as required by The Local Government Finance Act 2012.	

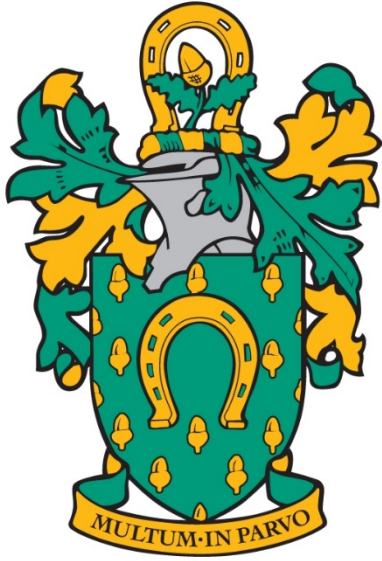
### **12.15 Strategic Director for Law and Governance and Monitoring Officer**

12.15.1	In accordance with the strategies, policies and priorities of the Council and the general conditions set out in this Scheme, to exercise the Council's functions with regard to Commissioning, Corporate Services, Legal and Democratic Services.	
12.15.2	To monitor the use of the Gifts and Hospitality Registers and to maintain and sign acknowledgement of entries in the Gifts and Hospitality Register.	

12.15.3	To make amendments or corrections to the Constitution as necessary and any amendment necessary to ensure compliance with the law	In Consultation with the Chief Executive and subject to reporting to the next meeting of the Constitution Commission.
12.15.4	To receive petitions in accordance with the Council's Petitions Scheme.	
12.15.5	To receive applications in accordance with Chapter 2 of the Localism Act 2011.	
12.15.6	To receive applications in accordance with Chapter 3 of the Localism Act 2011.	
12.15.7	To take all actions necessary and appropriate in order to protect the legal position of the Council and where necessary to preserve the options of the Council where a formal decision of Cabinet, Council or a Committee is required	Where the proposed action is likely to exceed the service budget the decision is to be taken in consultation with the Strategic Director of Resources.
12.15.8	To take all relevant regulatory and enforcement action in connection with the exercise of functions, including without limitation, issuing any form of Notice, Order, Caution, an injunction or authorising the commencement for proceedings.	
12.15.9	In common with the Chief Executive in consultation with the Chairman of Council to decide on any application for extended absence by a Councillor	

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# Rutland County Council

## PART 4 OF THE CONSTITUTION RULES OF PROCEDURE

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## **INTRODUCTION AND GUIDANCE TO USING PROCEDURE RULES**

- 1) Procedure Rules are the Council's internal regulations for ensuring good practice and compliance with the law in the conduct of its business.

Failure to comply with Procedure Rules can have serious consequences both for the Council and for any individual Members and/or Officers concerned. Procedure Rules should be followed regardless of whether they were designed by the Council or imposed by statute. Failure to do so may result in any of the following serious consequences:

- a) A successful complaint to the Ombudsman for maladministration.
- b) Judicial Review of the Council's decision.
- c) A District Auditor ruling that expenditure is unauthorised and unlawful.

## **GUIDANCE ON PROCEDURE RULES**

If you need help in understanding or implementing these regulations, advice and guidance can be obtained from the Democratic Services Team in the first instance ([democraticservices@rutland.gov.uk](mailto:democraticservices@rutland.gov.uk)).

## **ADVISORY NOTES ON COUNCIL PROCEDURE (These notes apply to all Council and Committee Meetings)**

- 1) **Debate, Relevance and Involvement**

Members should refrain from raising matters not strictly relevant to the business contained in the agenda.

Members participating in debate should bear in mind the principle of speaking only once. Excessive involvement by some Members can restrict contributions from others and lengthen meetings. In addition, the person presiding has the discretion not to invite additional comment or questions where they feel this appropriate.

## 2) **Entering or leaving a Meeting in Progress**

Members entering, leaving or re-entering a meeting which is in progress should clearly indicate their arrival, departure or re-entry to the Chairman and should receive an acknowledgement before doing so.

## 3) **Information**

In the interests of efficiency, Members should obtain factual information on agenda items from Officers prior to a meeting.

Members wishing to submit written information on an agenda item should refer the matter to the Chief Executive and the Chairman of the Council at least 24 hours before the meeting.

## 4) **Interests**

Members should try to avoid seeking an Officer's advice on pecuniary or Code of Conduct interests either immediately before or during a meeting. If Officer advice is needed, it is important to give adequate time for consideration before a meeting.

The decision whether or not to declare an interest is the individual Member's responsibility. See RCC Constitution Part 5 - Members Code of Conduct relating to Members' Interests and Procedure Rule 23(3) relating to the Chairman's duty to ensure that everything to be discussed is lawful.

## 5) **Smoking**

Smoking is not permitted in any of Rutland County Council's premises, including perimeter grounds such as car parks.

## 6) **Voting**

Members are expected to indicate their intentions when voting on any issues by clearly raising their hands until the Committee Administrator announces the result. This will not apply when there is a secret ballot.

## **SECTION 1 - COUNCIL PROCEDURE RULES (Procedure Rules 1 - 57)**

### **PROCEDURE RULE 1 DEFINITION AND INTERPRETATION OF PROCEDURE RULES**

- 1) The ruling of the Chairman on the definition, interpretation or application of these Procedure Rules, or on any proceedings of the Council, shall not be challenged at any meeting of the Council.
- 2) The definitions of terms used in the Constitution shall apply to these Procedure Rules. See the Introduction to the Constitution.

### **PROCEDURE RULE 2 MEETINGS OF THE COUNCIL**

#### **1) Annual Meeting of Council**

- a) The Annual Meeting of the Council shall be held:
  - i) in the year of the ordinary election of councillors to the Council within 8 to 21 days of the retirement of the outgoing councillors. This will normally be on the third Monday after the day of the election unless the Chief Executive determines otherwise.
  - ii) in other years within the months of March, April or May.
- b) The Order of the Agenda for the Annual Meeting of the Council is prescribed in Procedure Rule 19.

#### **2) Ordinary Meetings of Council**

- a) Ordinary Meetings of the Council shall be held on dates fixed by the Council at its Annual Meeting.
- b) Any dates can be varied by the Chairman and/or the Vice-Chairman of the Council with good reason.
- c) The order of the agenda for an Ordinary Meeting of the Council is prescribed in Procedure Rule 20.

#### **3) Special Meetings of the Council**

- a) A Special Meeting can only be called for a specific purpose and only an item or report appearing on the agenda can be considered at the meeting.
- b) Those listed below may request the Chief Executive to summon a Special Council Meeting at any time in addition to ordinary meetings:

- i) the Council by resolution.
  - ii) the Chairman of the Council.
  - iii) the Vice-Chairman of the Council in the Chairman of the Council's absence.
  - iv) the Monitoring Officer.
  - v) any five members of the Council in accordance with 3) e) below.
- c) When the Chairman or Vice-Chairman of the Council decides to call a Special Meeting of the Council, they shall immediately inform the Chief Executive in writing that they have done so, the business to be transacted and the date, time and place for which the meeting is called. The Chief Executive will then ensure that the Notice and summons are properly issued, published and distributed.
- d) The Monitoring Officer can require the Chief Executive to call a Special Meeting of the Council by submitting a **written request** and giving the reasons for the request. This meeting must be held within 15 days of the receipt of the request unless the Monitoring Officer agrees to a later date.
- e) Five Members of the Council can require the Chief Executive to call a Special Meeting of the Council by submitting a written request. This meeting must be held within 15 working days of the receipt of the request unless the Members requesting the meeting agree to a later date.
- f) The order of the Agenda for a Special Meeting is prescribed in Procedure Rule 19.
- g) The Chief Executive may summon a Special Council Meeting.

### **PROCEDURE RULE 3**

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

- 1) Ordinary Meetings shall be held at Catmose and shall not start before 7.00pm, unless the Chairman of the Council and the Chief Executive decide otherwise for good reason.
- 2) The Chief Executive, in consultation with the Chairman and Vice-Chairman of the Council, may make arrangements to hold Meetings elsewhere if this is expedient to the business to be transacted. The start of a Meeting shall not be before 7.00pm unless varied by the Council or Chairman of the Council and the Chief Executive.

### **PROCEDURE RULE 4**

#### **NOTICE OF, AND SUMMONS TO A COUNCIL MEETING**

The Head of Paid Service will give notice to the public of the time and place of any meeting, in accordance with the Access to Information Procedure Rules. At least five clear working days before a meeting, the Head of Paid Service will send a summons, signed by him/her, by post or other electronic means, to every member of the Council, or leave it at their usual place of residence. The summons will be accompanied by all reports which are available. If a Special Meeting is called exceptionally within the

specified time scale for an ordinary meeting the required Notice must be delivered to every member of the Council, published and displayed as soon as possible in accordance with the Rules (Access to Information Procedure Rules 172 - 192)

## **PROCEDURE RULE 5 RECORDING OF COUNCIL MEETINGS**

- 1) In accordance with the Openness of Local Government Bodies Regulations the filming and recording of the public sessions by the public of any Council, Cabinet, committee or Committee meetings through any audio, visual or written methods will be allowed, providing this does not disturb the conduct of the meeting.
- 2) The Chairperson of the relevant meeting will have the power to withdraw this permission should it prove necessary due to disruptive behaviour, for example, through flash photography, intrusive camera or lighting equipment, noise interrupting the meeting or those observing the meeting or the behaviour of the person filming the meeting.
- 3) Whilst notice is not formally required, anyone intending to film or record at a meeting is asked to contact the relevant Democratic Services Officer in advance of the meeting so that the Chairperson, other Members and any members of the public present can be informed, and the necessary arrangements made.
- 4) A designated area for those wishing to record proceedings will be provided and clearly sign-posted. All those visually recording a meeting must remain in designated areas within the meeting room and are requested to only focus on recording Members, officers and the public directly involved in the conduct of the meeting, members of the public who are not part of the meeting have not consented to being recorded, therefore should not be included in any recording activity.
- 5) Access to record proceedings is only available to meetings, which are open to the public. In limited defined circumstances, for example when confidential or exempt items are discussed, some meetings may need to be held in private or move to a private session during the meeting. In these cases, recording will not be permitted as the public will be excluded for the relevant part of the meeting.
- 6) This procedure rule should be read in conjunction with the Councils Protocol on Recording at Public Meetings.
- 7) The Council may arrange for any of its meeting to be filmed or recorded for live or subsequent broadcast via the council's internet site, or other social media platforms.

## **PROCEDURE RULE 6 ACCESS TO INFORMATION**

The Access to Information Rules (Procedure Rules 172 - 192) apply to meetings of the Council.

## **PROCEDURE RULE 7 RECORD OF ATTENDANCE**

The name of every Member attending will be recorded in the official record of the meeting.

## **PROCEDURE RULE 8**

### **VOTING**

- 1) Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.
- 2) If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.
- 3) Unless a recorded vote is demanded under rule 4) below, the Chair will take the vote by show of hands, or, if there is no dissent, by the affirmation of the Meeting.
- 4) The vote will take place by recorded vote if any five Members who are not disqualified from voting and clearly indicate their request before a vote is taken on a proposition. If any Members are disqualified from voting this number may be reduced to a quarter of those present who are not disqualified. The names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.
- 5) A recorded vote must take place when setting the County Council's budget and determining the level of council tax to be levied for each financial year. This rule will apply to both the substantive motion and any amendments. There is no necessity for one quarter of members present to request a recorded vote in these circumstances as this is now a legal requirement for Budget Meetings.
- 6) Any member may request immediately after the vote is taken, that their vote is recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

## **PROCEDURE RULE 9**

### **QUORUM AT COUNCIL**

**NOTE: It is not permissible to transact any business at a Council meeting unless at least one quarter of the whole number of Members of the Council are present. In the event of more than one third of the Members of the Council becoming disqualified at the same time, the quorum shall be determined by reference to the number of Members remaining qualified – Local Government Act 1972, Schedule 12, Paragraphs 6 and 45. The quorum of Rutland County Council while it has a membership of 27 is, therefore, 7.**

- 1) No business can be dealt with at any meeting of the Council unless there is a quorum present. If a quorum is not present the meeting must be adjourned immediately for 15 minutes. If after 15 minutes, there are still fewer Members than a quorum then the person presiding shall adjourn the meeting.

- i) Should the number of apologies make it apparent that the meeting cannot proceed then the Chairman and/or the Chief Executive may postpone or cancel the meeting subject to clause 2 below.
- 2) The business remaining on the Agenda of that meeting will be postponed to a time fixed by the Chairman at the adjournment, or if no time is fixed, to the next Ordinary Meeting.

## **PROCEDURE RULE 10**

### **APPOINTMENT OF COMMITTEES**

- 1) The Council at its Annual Meeting will appoint those Committees it considers necessary in accordance with the Local Government Act 2000 to carry out the Council functions, non-executive functions and regulatory matters and shall determine the following:
  - a) the Terms of Reference of each Committee.
  - b) the number of places and voting places on each Committee.
  - c) the allocation of places to each political group.
  - d) the appointment of the Members of the Committee allocated to political groups in accordance with their wishes (although this may be altered at the discretion of the Group Leader).
  - e) the appointment of any non-voting members and advisers to any Committee providing that the majority of voting Members on the Committee are Members of the Council. The Council shall also specify the number of appointments that are to be made and what functions in relation to the Committee each person appointed may exercise.
  - f) the appointment of the Chairman from amongst the voting Members of the Committee (Vice-Chairman will be appointed by the relevant Committee at the first meeting of the Municipal Year).
  - g) the placing of any limitations on the powers of a Committee to arrange for the discharge of any of its functions by a Sub-Committee; and
  - h) the proposed date and time of each Ordinary Meeting in the Municipal Year.
    - i) Members of the Cabinet cannot be appointed to the Strategic Overview and Scrutiny Committee.
    - ii) Members of the Cabinet can be appointed to Regulatory and Other Committees but cannot be appointed as Chairman or Vice-Chairman (unless agreed by Council).



- 2) The Council may at any time revise resolutions under paragraph 1.
- 3) Every Committee shall continue to discharge the functions given to it and exercise any delegated powers until the Council resolves otherwise.
- 4) Every person who is appointed as a voting member of a Committee and every person appointed to exercise other functions in relation to a Committee shall continue to act until the appointment is terminated either by the Council, by virtue of their appointment to Cabinet or by the wishes expressed by a political group as appropriate.

## **PROCEDURE RULE 11– APPOINTMENT OF SUB-COMMITTEES**

The Council at its Annual Meeting will appoint those Sub- Committees it considers necessary in accordance with the Local Government Act 2000 to carry out the Council functions, non-executive functions and regulatory matters and shall determine the following:

- 1) establish any Standing Sub-Committees and their Terms of Reference.
- 2) the number of places and voting places on any Sub-Committee.
- 3) allocate the number of voting places on any Sub-Committee to each political group.
- 4) appoint the Members of any Sub-Committee in accordance with the wishes of the political groups.
- 5) the dates of meetings of Sub-Committees.

The procedures for meetings of such groups/committees shall be the same as those for the Regulatory and Other Committees of the Council

## **PROCEDURE RULE 12 APPOINTMENT OF SPECIAL or ADVISORY COMMITTEES**

- 1) The Council may establish such committees for the purposes of discharging Council functions and may also establish a Committee of a purely advisory nature.
- 2) A Committee may also establish such groups/committees provided that the Council agree.
- 3) On establishing a such groups/committees, the Council shall determine each of the following:
  - a) the Terms of Reference of each group/committee;
  - b) the number of places and voting places on each group/committee;
  - c) the allocation of places to each political group;

- d) the appointment of the Members of such groups/committees allocated to political groups in accordance with their wishes;
  - e) the appointment of the Chairman of the Committee from amongst the voting Members of the group/Committee;
  - f) the appointment of any non-voting members and advisers to any group/Committee providing that the majority of voting Members on the group/Committee are Members of the Council. The Council shall also specify the number of appointments that are to be made and what functions in relation to the group/Committee each person appointed may exercise;
  - g) the placing of any limitations on the powers of a group/committee to arrange for the discharge of any of its functions by a Sub-Committee; and
- 4) The procedures for meetings of such groups/committees shall be the same as those for the Regulatory and Other Committees of the Council.

### **PROCEDURE RULE 13**

### **APPOINTMENT OF JOINT COMMITTEES AND HOLDING OF JOINT MEETINGS OF COMMITTEES**

#### **1) Joint Committees**

- a) The Council may set up a Joint Committee of two or more Committees or Sub-Committees to consider a matter which falls within their Terms of Reference.
- b) The Council must approve the formation, appoint the Chairman and Vice-Chairman, and approve the Terms of Reference of the Joint Committee.
- c) The date of the first ordinary meeting of a Joint Committee may be set by the Council or may be summoned by the Chairman of a Committee forming part of the Joint Committee.
- d) The quorum of a Joint Committee shall be the equivalent of the combined quorum for each of the constituent Committees and/or Sub-Committees forming the Joint Committee. A Member present who is a Member of more than one of the Committees or Sub-Committees concerned shall indicate which one they represent for the purposes of the quorum. If a quorum is not present for each of the constituent Committees and/or Sub-Committees then the Joint Committee will not have a quorum.

#### **2) Joint Meetings of Committees**

- a) The procedure for meetings of Joint Committees shall be the same as those for the Council's Standing Committees.
- b) Two or more Committees or Sub-Committees may meet together for the purposes of common consultation regardless of paragraphs 1 to 5 above. However, any such meeting shall have no executive powers and any decision

taken shall be of an advisory nature only. Committees and Sub-Committees meeting in this way must then present a report to the Council requesting that their recommendations be approved.

## **PROCEDURE RULE 14 CIVIL EMERGENCY OR DISASTER** **APPOINTMENT OF EMERGENCY COMMITTEE**

- 1) If in the opinion of the Chairman of the Council, the Leader of the Council or the Chief Executive, an emergency situation or disaster has arisen or is likely to arise, they may summon a meeting of the Emergency Committee to make democratically accountable decisions in the public interest.
- 2) The Emergency Committee shall be the Chairman of the Council and Leader and Deputy Leader of the Council. The Chairman of the Emergency Committee shall be Leader of the Council and the quorum shall be two. If any two of the Emergency Committee are not available, the Chief Executive, in consultation with the remaining Member of the Committee, may contact any other Cabinet Member, Chairman of a Council Committee, Chairman of a Scrutiny Committee (if a Member) or any other Member in that order, to ensure that there are three Members on the Committee. If all three Members are unavailable, the Chief Executive may follow the same procedure as in the previous sentence to ensure that the Emergency Committee can function.
- 3) The Chairman of the Council will be authorised to discharge functions of the Council as appropriate, and the Leader and Deputy Leader will be authorised to discharge executive functions. Members attending in place of these Members are authorised to exercise the same functions.
- 4) The Emergency Committee shall be authorised to declare an emergency and, subject to statutory restrictions, to discharge with full delegated power, such functions of the Council as the Committee chooses to exercise including:
  - a) To approve new or amended policy necessary to respond to the emergency situation
  - b) To approve departure from existing policy and practice necessary to respond to the emergency situation
  - c) To approve the virement of approved budgets and authorise the treatment of reserves and balances
  - d) To approve amendments to the Capital Programme
  - e) To make any decision delegated to the two policy committees until such time as normal business is resumed
  - f) To delegate decision making to officers on the Council's full range of responsibility when required
- 5) The decision of the Emergency Committee in declaring an emergency may be revoked by the Council, but that decision, and any decisions made by the Emergency Committee as a result, shall not be invalid.

- 6) Any restrictions imposed on the discharge of functions by Committees under Procedure Rules, the scheme of delegation of powers and duties of Committees and Financial Procedure Rules at Part 8 shall not apply, so far as is lawful, to decisions of the Emergency Committee during an emergency.
- 7) The Emergency Committee, the Cabinet or the Council shall make a declaration that an emergency that has been declared has ended.
- 8) At the end of an emergency the Emergency Committee shall report to the Council on the action taken.

## **PROCEDURE RULE 15**

### **APPOINTMENT OF CHAIRMEN AND VICE-CHAIRMEN OF COMMITTEES**

- 1) Chairmen of Committees shall be appointed by the Council in accordance with Procedure Rule 10(1) (Appointment of Committees) unless an appointment needs to be made at any other time in which case it shall be made at the first Ordinary Meeting after the vacancy occurs.
- 2) Vice-Chairmen of Committees will be appointed by the Committee at its first meeting of the municipal year.
- 3) Chairmen and Vice-Chairmen of Committees may resign by giving notice in writing to the Chief Executive. A notice of resignation shall take effect from the time it is received by the Chief Executive unless it states that it is to take effect at a later date. In that event, the resignation shall be effective from the date stated in the resignation letter.
- 4) The Council may also remove Chairmen and Vice-Chairmen of Committees.

## **PROCEDURE RULE 16**

### **DISAGREEMENT BETWEEN COMMITTEES**

- 1) When there is a disagreement on any matter between any of the Council's Committees it shall be referred to the Council for consideration. This shall not apply to the Regulatory or Conduct Committee.
- 2) While a matter is being considered by the Council, Committees shall not report on it to the Council or submit a decision on it for confirmation by the Council or deal with it in exercise of delegated powers.
- 3) Any Committee concerned shall accept the decision of the Council on how a disagreement should be resolved.

## **PROCEDURE RULE 17**

### **POLITICAL BALANCE FOR COMMITTEES**

- 1) The Annual Council Meeting shall determine the allocation of Committee places to political groups, if any, to ensure, so far as is practicable:
  - a) that all seats are not allocated to the same political group;
  - b) the majority of seats go to the political group with the majority on the Council;
  - c) subject to the above two principles the number of seats on the total of all ordinary Committees allocated to each political group bears the same proportion as the proportion of members of the group in relation to the total number of Members on the Council; and
  - d) subject to the above three principles the number of seats on each ordinary Committee is allocated to each political group in the same proportion as the proportion of members of each political group in relation to the total number of Members on the Council.
- 2) The Monitoring Officer shall submit a report showing what allocation of seats would, in their opinion, best meet the requirements of Section 15(4) of the 1989 Act whenever:
  - a) The Council is required to review the allocation of seats on Committees between political groups, or
  - b) the Council resolves to carry out such a review.
- 3) In the light of such a report, the Council shall determine the allocation of seats to political groups in accordance with the principles in paragraph 1 unless the Secretary of State makes regulations contrary to that effect or if no Member of the Council votes against any proposed arrangements that depart from paragraph 1. An abstention will not be regarded as a vote against any proposed arrangement. If there is a vote against then seats must be allocated in accordance with the political balance requirements
- 4) When an appointment of a voting Member of a Committee needs to be made in accordance with the wishes of a political group then the Council shall be notified of the appointment at the next meeting following that appointment. This shall also apply in instances where a political group indicates a wish to terminate an appointment.

## **PROCEDURE RULE 18**

### **SUBSTITUTION**

An authorised representative of a political group may notify the substitution of a member of that group to attend a given meeting or a number of meetings within a specific time period on its behalf. There will be no right of substitution for the Planning and Licensing Committee. The notification must be received in writing by the Monitoring Officer and the Democratic Services Manager (or have been sent to [democraticservices@rutland.gov.uk](mailto:democraticservices@rutland.gov.uk) if notification is given by email) by 12 Noon on the day of the meeting of the intended substitution.

## **PROCEDURE RULE 19**

### **AGENDA FOR ANNUAL MEETING**

- 1) Subject to the provisions of Procedure Rule 20(2) (Variation of Order of Business) the order of business at the Annual Council Meeting shall be as set out below:
  - a) To join in a moment of reflection as set out in Procedure Rule 20 (3)
  - b) To appoint a person to preside if the Chairman is not present.
  - c) To elect the Chairman of the Council.
  - d) To elect the Vice-Chairman of the Council.
  - e) To receive apologies for absence.
  - f) To receive the Chairman's announcements.
  - g) To receive any announcements from the Head of Paid Service.
  - h) To receive Declarations of Interest and any declarations under Section 106 of the Local Government Finance Act 1992.
  - i) In the year where there is an ordinary election of councillors, to elect a Leader to serve for a four-year term or until the next Annual Meeting after ordinary whole Council elections.
  - j) To note the decision of the Leader as to the number of Members of the Executive; who he/she has appointed to those roles; the scope of their respective portfolios and the terms of any delegation to them and officers.
  - k) Appoint at least one Overview and Scrutiny Committee, and any other Committees or Sub-Committees which the Council considers appropriate to deal with those matters which are not reserved to the Council itself or which are not executive functions.
  - l) Selection of Councillors on Committees and Outside Bodies.

At the annual meeting Council will:

- i) decide which committees to establish for the municipal year;
- ii) decide the size and terms of reference for those committees;
- iii) decide the allocation of seats to political groups in accordance with the political balance requirements;
- iv) receive nominations of councillors to serve on each committee and other authorities;
- v) authorise members of Committees in accordance with the wishes of any political groups and to authorise the appointment of persons to be co-opted onto a Committee.

- vi) appoint to those committees, standing sub-committees and other authorities except where appointment to those bodies has been delegated by the Council or is exercisable only by the executive; and
  - vii) appoint the Chairman of all the Council's committees.
- m) To agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution).
  - n) To approve a programme of dates for ordinary meetings of the Council and Committees for the year.
  - o) To consider any matters referred to Council by Members which in the opinion of the Chief Executive cannot wait until the next scheduled meeting of the Council to be determined.

## **PROCEDURE RULE 20**

### **AGENDA FOR ORDINARY MEETING OF COUNCIL (ORDER OF BUSINESS)**

- 1) The order of business at Ordinary Meetings shall be as follows unless it has been varied in accordance with paragraph 2:
  - a) To join in a moment of reflection as set out in Procedure Rule 20 (3)
  - b) To elect a Member to preside at the meeting in the absence of the Chairman and Vice Chairman of the Council.
  - c) To receive apologies for absence.
  - d) To receive the Chairman's Announcements.
  - e) To receive any announcements from the Leader, members of the Cabinet or the Head of Paid Service.
  - f) To receive Declarations of Interest (pecuniary and non-pecuniary interests) and any declarations under Section 106 of the Local Government Finance Act 1992.
  - g) To elect a Chairman at the first meeting after which the office has become vacant.
  - h) To elect a Vice Chairman at the first meeting after which the office has become vacant.
  - i) To approve as a correct record and sign the minutes of the last meeting of the Council;
  - j) To consider any of the following items:

- i) the promotion or opposition of a Bill under Section 239 of the Local Government Act 1972;
  - ii) a report from the Chief Financial Officer under section 114 of the Local Government Finance Act 1988;
  - iii) a report of the Monitoring Officer under section 5 of the Local Government and Housing Act 1989 to consider the business for which the meeting has been summoned.
- k) To consider the setting of an amount for the Council Tax where the meeting is the last one before 11 March (or any date prescribed by legislation) and an amount has not already been set for the Council Tax for the ensuing financial year.
  - l) To receive petitions, deputations and questions from members of the public under Procedure Rule 25.
  - m) To receive petitions from Members and the asking and answering of questions from Members under Procedure Rule 27
  - n) To consider any item of business which remains from the agenda of a previous Council Meeting.
  - o) To determine matters where a decision taken by a Committee has been referred to the Council by two members.
  - p) To determine matters where a decision taken by the Cabinet has been referred to Council by the call-in procedure of Scrutiny Committees, as a result of the decision being deemed to be outside the Council's Policy Framework by the Monitoring Officer or outside or not wholly in accordance with the Budget by the Section 151 Officer.
  - q) To receive reports from the Cabinet and receive questions and answers on any of those reports.
  - r) To receive reports from a Committee on matters which require Council approval because the Committee does not have the delegated authority to act on the Council's behalf.
  - s) To receive reports from Council Committees on any other matters and to receive questions and answers on any of those reports.
  - t) To receive reports from the Overview and Scrutiny Committees on any other matters and to receive questions and answers on any of those reports.
  - u) To receive reports about and receive questions and answers on the business of any joint arrangements or external organisations. (See Procedure Rule 29 (6))



- v) To consider Notices of Motions submitted by Members of the Council in accordance with Procedure Rule 31 in the order in which they are recorded as having been received.
- w) To consider other business specified in the summons to the meeting.
- x) To consider Any Other Urgent Business at the discretion of the person presiding provided that it has previously been notified to him.

2) The order of business in paragraph 1 may be varied by:

- a) the direction of the person presiding, but not so as to alter the order of items a) to i) or
- b) a resolution of the Council, moved, seconded and put without comment, but not so as to alter the order of items a) to i)

3) At the beginning of each meeting of Council, the person presiding shall invite those present to join him in a moment of reflection as follows:

Let us stand for a moment of quiet reflection or prayer as you wish.

As we are about to take Council together, on matters concerning this County, we should seek to faithfully discharge our duties of office, both in our debate and in our decisions, and promote the health, safety and wellbeing of those we serve.

Thank you, please be seated

**PROCEDURE RULE 21**  
**AGENDA FOR A SPECIAL MEETING**

The agenda for a Special Meeting can include any items which may be considered at an ordinary meeting, except for the approval of minutes and notices of motion, items on External Organisations and Joint Arrangements provided that items relating to any petitions, deputations or questions received shall only be considered if they relate to the item on the agenda. Any Other Urgent Business may not be transacted at a Special Meeting. (See also Procedure Rule 25 for Petitions, Deputations and Questions)

**PROCEDURE RULE 22**  
**CHAIRMAN/PERSON PRESIDING AT MEETINGS OF THE COUNCIL**

1) **Chairman of the Council**

- a) The Chairman shall be elected annually and is eligible for re-election in subsequent years.
- b) Any power of the Chairman in relation to the conduct of a Council Meeting may be exercised by the person presiding.

**2) Vice-Chairman of the Council**

- a) The Vice-Chairman shall be elected annually and may continue to serve for an unlimited period provided that the person is re-elected each year.

**3) Absence of the Chairman**

- a) In the absence of the Chairman, the Vice-Chairman of the Council shall preside over the conduct of the meeting.

**4) Absence of the Chairman and the Vice-Chairman of Council**

- a) If the Chairman and the Vice-Chairman of the Council are absent from a meeting, the Chief Executive will invite Members to nominate a non-executive Member of the Council to take the chair. If discussion arises on that Motion the Chief Executive will exercise the powers of the person presiding until a Member is elected.
- b) If the Chairman of the Council arrives at a meeting when the Vice Chairman of the Council is in the Chair, the Chairman shall not preside until the item under consideration when they arrive has been determined. This shall also apply if either the Chairman or the Vice-Chairman of the Council arrive at a meeting when another Member is presiding.

**PROCEDURE RULE 23**  
**RESPONSIBILITY OF A CHAIRMAN, VICE-CHAIRMAN OR A PERSON**  
**PRESIDING AT A MEETING**

- 1) To preside over Council Meetings.
- 2) To protect Council Meetings from outside interference.
- 3) To seek to ensure that the proceedings of the meeting are lawful.
- 4) To ensure that reasonable efforts are taken to explain issues being discussed so that Members are clear on what they are being asked to vote.
- 5) To ensure that as far as possible information is complete.
- 6) To permit every point of view to have a fair hearing.
- 7) To ensure the opinions expressed are relevant to the matter in hand.
- 8) To ensure business is transacted with reasonable speed.
- 9) To ensure as far as possible that proceedings are friendly and free from personal vilification.
- 10) To co-operate with Officers and other Members.

- 11) To ensure that a Council Meeting has a quorum at all times and to adjourn the meeting immediately if a quorum is not present.
- 12) To ensure that the order of the agenda for Council Meetings is followed.
- 13) To move the Minutes of previous Council Meetings.
- 14) To put any proposition to a vote which is moved and seconded by Members who are not disqualified from voting.
- 15) To exercise a second or casting vote in the event of a tied vote upon a proposition. The person exercising a second or casting vote shall be expected to use it in support of an Officer's recommendation or in favour of maintaining an existing policy or situation unless they are of the opinion that there are exceptional circumstances which require them to vote otherwise.
- 16) To allow petitions, deputations and questions to be presented and to respond accordingly.
- 17) To ensure that the Council's Rules of Debate are followed.
- 18) To make rulings on the application of Procedure Rules during a meeting of the Council.
- 19) To make rulings on points of order, points of personal explanation and points of information.
- 20) To move that a Member named be not heard further and put it to the vote without a seconder or discussion.
- 21) To move that a Member named shall leave the meeting and put it to the vote without a seconder or discussion.
- 22) To adjourn meetings in the event of disorderly conduct by Members.
- 23) To warn members of the public from interrupting proceedings and if necessary order that the public area is cleared and/or the meeting is adjourned.
- 24) To determine if items of Any Other Urgent Business should be included on the Council's agenda.
- 25) To make statements to the press on the outcome of Council Meetings.
- 26) To summon a Special Council Meeting.
- 27) To postpone or cancel a Council Meeting and to approve holding a Special Council Meeting at a place other than Catmose or Oakham Castle.

## **PROCEDURE RULE 24**

### **MINUTES**

- 1) The Minutes of Council Meetings will be produced in accordance with the style prescribed by the Chief Executive to comply with any statutory requirements. Minutes are there to record the decisions taken and the thrust of the debate and not a verbatim record of what was said.
- 2) The Minutes of each meeting of the Council shall be made available for public inspection at the Council's Catmose Offices, on the Councils Website and shall be sent to each Member of the Council together with or before the issue of the summons to attend the meeting at which the Minutes are to be submitted for approval.
- 3) **The Minutes of a meeting of the Council shall be submitted by the Chief Executive for approval of their accuracy at the next Ordinary Council Meeting. (CORE PROCEDURE RULE)**
- 4) Minutes of every Council Meeting shall be submitted to the following Ordinary Meeting for approval. The person presiding shall move that the Minutes be taken as read, approved and signed by him as a correct record.
- 5) No Motion on the Council Minutes shall be accepted except upon their accuracy.

## **PROCEDURE RULE 25**

### **SUBMISSION OF PETITIONS, DEPUTATIONS AND QUESTIONS FROM MEMBERS OF THE PUBLIC**

- 1) **General Issues common to all Petitions, Deputations and Questions**
  - a) Subject to paragraph 4 of this Procedure Rule any person may present a petition, deputation or question to an Ordinary Meeting of the Council which is relevant to some matter in relation to which the Authority has functions, or which affects Rutland or any of its inhabitants. See also Procedure Rule 21 for provisions relating to a Special Meeting.
  - b) The Chief Executive shall not accept a petition, deputation, or question from a member of the public which:
    - i) is not about a matter for which the Council has a responsibility or which affects Rutland;
    - ii) which is offensive, frivolous, defamatory or is of a personal nature;
    - iii) is substantially the same as a petition, deputation or question which has been put at a meeting of the Council within the previous six months;
    - iv) appears to be from a staff group which has an alternative consultative forum;
    - v) is about any matter where there is a right of appeal to the courts, a tribunal or to a Government Minister or on any matter which, in the opinion of the Chief Executive, is of a quasi-judicial nature;

- vi) is about any specific matter which would require confidential or exempt information to be divulged as defined in the Access to Information Rules (Procedure Rules 172 - 192).
- c) Any decision not to accept a petition, deputation or question shall be reported by the Chief Executive to the Council together with a reason for refusal.

## 2) Petitions

- a) A person wishing to submit a petition to a specific meeting of the Council, or any Scrutiny or Committee meeting shall give notice in writing of their intention to do so to the Democratic Services Team providing details of the subject matter and number of signatures by no later than midday on the tenth working day before the meeting. For example for a meeting on a Monday submission must be by midday the second preceding Monday.
- b) The person submitting the petition must also indicate who will present the petition to the meeting.
- c) The person presenting the petition will read out, or summarise, the prayer of the petition, indicate the number of signatories, and make further supporting remarks relevant to the petition. **The time for this shall be a maximum of three minutes**. The Chairman will refer the matter to another appropriate body of the Council within whose terms of reference it falls without discussion, unless a relevant item appears elsewhere on the Agenda.
- d) If a petition is presented to a meeting at which there is an agenda item on the same subject, a Member may propose that the item and the petition should be considered together and that the item be moved forward on the agenda.
- e) Petitions may be referred to the appropriate Committee or Sub-Committee without debate. If after the meeting it becomes apparent that the petition is more relevant to some other Committee or Sub-Committee, the Chief Executive, in consultation with the Chairmen of all the Committees and Sub-Committees involved, may refer it to another Committee or Sub-Committee.
- f) When a petition has been referred to a Committee or a Sub-Committee by Council, a report shall be submitted to the Council on the action taken as soon as practicable and in any case not later than the second Ordinary Meeting of Council after the meeting at which it was presented. The person submitting and presenting the petition shall be informed of the response and the date of the meeting at which it will be considered.
- g) A valid petition containing more than 1500 signatures from people who live, work or study in Rutland will trigger a Full Council Debate. The petition organiser will be given **5 minutes** to present the petition. The Members of the Council may discuss the petition and/or ask questions of the petition organiser for a further period of not more than **15 minutes**.

## 2) Deputations – Other than Planning Applications

- a) A request to present a deputation should be made to the Democratic Services Team by no later than midday on the third working day before the meeting e.g. Wednesday 12:00 for a meeting the following Monday.
- b) The person making the request shall indicate the matter to which the request relates, the number, names and addresses of the persons who will form the deputation and who will speak. The Chief Executive in consultation with the Chairman or Vice Chairman of the Council has the authority to determine whether such requests are granted. The Democratic Services Team will advise the Chief Executive of any deputation received.
- c) A copy of the text of the deputation shall then be provided to the Democratic Services Team by no later than midday on the day of the meeting or the deputation will not be received.
- d) The maximum time for presenting each deputation is 5 minutes. Any remarks shall relate to the subject matter and should not constitute a personal attack upon any person or contain any offensive language or aggressive gestures. A person speaking for a deputation shall be heard in silence.
- e) The Members of the Council may ask questions of the members of the deputation for a further period of not more than five minutes. Such questions shall be asked and answered without discussion.

### 3) **Deputations – Relating to Planning Applications**

Deputations on planning applications may only be made in accordance with the adopted Speaking Scheme at Part 5 of the Constitution.

### 4) **Public Questions at Meetings**

- a) Each question and any subsequent question shall be restricted to a single topic.
- b) Any person may put a written question to any Council Meeting provided that the Democratic Services Team has received the question in full by no later than midday on the third working day before the meeting at which that person wishes to put the question e.g. Wednesday 12:00 for a meeting the following Monday. The notice shall be signed by the questioner and shall include the questioner's address. The Democratic Services Team will advise the Chief Executive of any questions received.
- c) The Democratic Services Manager and/or the Chief Executive may reword the question with the agreement of the questioner.
- d) All questions shall be addressed to the person presiding at that meeting who may authorise another Member or Officer to provide an answer.
- e) The total time allowed for each questioner including the response shall be five minutes.

- f) The person who gave notice of the question may ask a representative to put the question on their behalf, provided that this is notified to the Democratic Services Team when the notice of the question is given.
- g) All questions shall be circulated to all Members at or before the Council Meeting at which they are to be asked.
- h) If a person who is to ask the question is not present at the meeting when the question is reached on the agenda, the question shall not be considered, except that where the question was to be asked by a representative and they are absent, then the person who gave the notice may still ask the question.
- i) After a question has received a reply, the questioner may ask one supplementary question which must arise directly out of the original question or reply.
- j) Every question shall be put and answered without discussion. No discussion nor resolution shall be permitted on any question or in reply to a question.
- k) The name of the person who gave notice of the question, the text of the question and a summary of the response shall be recorded in the Minutes.
- l) An answer to a question may be given by the person to whom it is addressed or by a Member or Officer on their behalf, and may take the form of:
  - i) an oral answer;
  - ii) a reference to information contained in some publication;
  - iii) a written answer circulated to Members of the Council before or with the summons for the next meeting.
  - iv) a written answer submitted after the meeting where the reply cannot be conveniently given orally or in writing before or at the meeting.
- m) Any questions not disposed of at the end of thirty minutes shall be answered in writing and reported for information to the next Ordinary Meeting.

**PROCEDURE RULE 26**  
**TIME ALLOWED FOR PETITIONS DEPUTATIONS AND QUESTIONS**  
**FROM MEMBERS OF THE PUBLIC**

- 1) The maximum time allowed for presenting petitions, deputations and questions at meetings shall be 30 minutes.
- 2) In addition to the time limit in (1) above, the maximum time allowed for valid petitions containing over 1500 signatures which have been accepted for a Full Council Debate shall be 20 minutes. The petition organiser will be given 5 minutes to present the petition. The Members of the Council may discuss the petition and ask the petition organiser questions for a further period of not more than 15 minutes.

- 3) Petitions, deputations and questions from members of the public shall be considered in the order in which they have been received. A member of the public may submit one petition, deputation or ask one question (not including a supplementary question) at the same meeting.

## **PROCEDURE RULE 27**

### **QUESTIONS FROM MEMBERS**

- 1) Any Member may ask one question at a Council Meeting provided he or she shall give notice in writing to the Democratic Services Team of the question by no later than midday on the third working day before the meeting at which the question is to be asked e.g. Wednesday 12:00 for a meeting the following Monday. The Democratic Services Team will advise the Chief Executive and Monitoring Officer of any questions received.
- 2) The Chairman of the Council may take questions with shorter notice in cases of urgency provided that they are submitted in writing to the Chairman and passed to the Democratic Services Team at the first available opportunity.
- 3) Procedure Rule 25 1) a) and 1) b) (Submission of Petitions) shall apply to questions asked by Members.
- 4) Questions may be asked of:
  - a) the Chairman of the Council;
  - b) the Chairman of a Committee or Sub-Committee;
  - c) representatives of the Council on outside bodies;
  - d) the Leader of the Council or a member of the Cabinet;
  - e) the Leader of any political groups on the Council;
  - f) the Chairman of a Scrutiny Committee.
- 5) A list of the questions of which notice has been given shall be circulated to Members of the Council at, or before, the meeting at which they are to be asked. Questions will be asked in the order in which they have been received.
- 6) Every question shall be put and answered without discussion, but the Member to whom the question has been put may decline to answer it. The Member asking a question may ask one relevant supplementary question which shall be put and answered without discussion, even if no answer is forthcoming from the first question. The Member to whom the second question has been put may decline to answer it.
- 7) An answer to a question may be given by the person to whom it is addressed or by a Member or Officer on their behalf, and may take the form of:



- a) an oral answer;
  - b) a reference to information contained in some publication;
  - c) a written answer circulated to Members of the Council before or with the summons for the next meeting;
  - d) a written answer submitted after the meeting where the reply cannot be conveniently given orally or in writing before or at the meeting.
- 8) Every question shall be relevant to some matter in relation to which the Authority has functions, or which affects any part of Rutland or its inhabitants.
  - 9) No discussion will be permitted nor any resolution moved with reference to any question or reply to a question.
  - 10) The Chairman may authorise another Member or an Officer to answer any question.
  - 11) The name of the Member asking the question, the text of the question and a summary of the response shall be recorded in the Minutes.

## **PROCEDURE RULE 28**

### **TIME ALLOWED FOR QUESTIONS FROM MEMBERS**

- 1) The maximum time allowed for asking questions at meetings shall be 30 minutes.
- 2) Questions from Members shall be considered in the order in which they have been received. When a Member wishes to ask more than one question (not having a supplementary question at the same meeting, paragraph 3 will apply to determine the order in which they will be considered.
- 3) A second question from the same Member will only be considered when the first question of all the other questioners have been received, and so on for any subsequent questions.

## **PROCEDURE RULE 29**

### **REPORTS TO COUNCIL**

- 1) **Reports of Committees**
  - a) The decisions of Committee Meetings which have not been taken under the delegated authority of the Council shall be reported to the next Ordinary Meeting of the Council, except when the meeting took place less than six working days before the date of the Council Meeting when they will be reported to the following Ordinary Meeting of the Council.
  - b) Paragraph 1 shall not apply to a Special Council Meeting or a Council Meeting summoned to set the level of Housing Rents or Council Tax.

- c) Committees may report to the Council on any issue which they have considered but **must** report matters reserved to the Council or matters which the Committee has considered but does not have delegated authority to determine.

## 2) Reports of the Executive

- a) The Cabinet has the right to submit reports directly to Council on any matters that they have considered.

## 3) Reports of Scrutiny Committee

- a) The Overview and Scrutiny Committee has the right to submit reports directly to Council on any matters that they have considered.

## 4) Reports of the Conduct Committee

- a) The Conduct Committee has the right to submit reports directly to Council on any matters that they have considered.

## 5) Reports generally

- a) With the exception of reports made under paragraph 6, reports to the Council may either be in the form of the Minutes of the relevant Meeting or in the form of a specific report.
- b) All Reports to be considered at a Council Meeting shall be sent to every Councillor before the meeting in accordance with the Access to Information Rules (Procedure Rules 172 - 192).
- c) Any plan or document mentioned in a Report and not circulated with the report, shall also be available for public inspection at least three working days before the meeting at which it is to be considered. This does not apply when it is proposed to consider them when the public and press are excluded from the meeting. Plans may also be displayed in the area outside the meeting room during the afternoon of the meeting. No further documents will be circulated or tabled at meetings by Officers without the prior approval of the Chief Executive unless they are required to do so by legislation.
- d) The decisions of bodies shall be presented in two parts and shall be identified clearly on the agenda for the meeting;
  - i) The first part shall consist of recommendations to the Council for confirmation. These shall be presented by the Chairman of the Committee, or Cabinet concerned who shall move the confirmation of each recommendation individually. Each recommendation shall be moved and determined by the Council before any further recommendations for confirmation are moved by the Chairman of the Committee, or Cabinet.

- ii) The second part shall consist of any other matters which the Committee or Cabinet wishes to report for information. The Chairman of the appropriate body shall present these en bloc for the information of the Council, and may summarise the work of the body as necessary since the last Council Meeting. Members may ask questions on the summary. After the Chairman has disposed of questions arising from the presentation, Members may ask questions on the Committee, or Cabinet's powers and duties generally.
- e) The Chairman of the Committee, or Cabinet submitting the report shall propose any necessary Motion to secure the approval of the report by the Council, unless the Council agrees that the report be withdrawn. The Chairman, before proposing the Motion to approve the report, may request the Council to agree to alterations to the report and if this is agreed the report shall be approved as amended. The Vice-Chairman of the Committee or any member of the Cabinet submitting the report shall have the first right of seconding the Motion to approve the report.
- f) In the absence of the Chairman of the Committee submitting the report, the Vice-Chairman of the Committee shall propose any necessary Motion to seek approval of the report. Any other voting Member of the Committee concerned may second the Motion. In the absence of the Leader of the Council, any member of the Cabinet may propose and second any necessary Motion to seek approval of the report.
- g) In the absence of both the Chairman and the Vice-Chairman of the Committee submitting the report any two voting Members of the Committee concerned may move and second any necessary Motion to approve the report. In the absence of two members of the Committee, or Cabinet submitting the report consideration of the report shall be deferred to the next ordinary meeting of the Council.
- h) A Member of the Council may, without notice, ask the Chairman of the Committee, or Cabinet a question relevant to a report while the report is being considered.
- i) Reports shall not be considered at the Annual Meeting of the Council. No Reports, other than on setting the Budget, shall be considered at any meeting summoned specifically for the purpose of setting the Budget and no reports other than the appointment of Freeman and/or Aldermen shall be considered at a meeting called specifically.
- j) In exceptional circumstances, the Chief Executive, in consultation with the Chairman of the Council and the Leader of the Council, may authorise the submission of any Committee Report at either of these meetings.

## **6) Reports on joint arrangements and external organisations**

- a) Members representing the Council on bodies exercising joint arrangements of local authority functions or on external organisations are expected to submit

reports to the Council from time to time on the work of those bodies or organisations and to answer questions from other Members about such work. If the representative Member considers that the subject matter of any report does not warrant it being made to a meeting of the Council, the Member shall submit the report to the Chief Executive for circulation to all Members at a convenient time. The Chief Executive, after discussion with the representative Member, may decide that a report should be made to a meeting of the Council.

- b) Reports to the Council may be in the form either of a written report or an oral report.
- c) A Member wishing to make a report should advise the Democratic Services Manager as soon as possible to enable best practice compliance with the Access to Information Rules (Procedure Rules 172 - 192) but in any event no later than noon on the working day immediately before the meeting (e.g. noon on the Friday before a meeting to be held on the following Monday). If the report is to be made in writing, the text must be submitted by that deadline. The Chief Executive, after discussion with the Member if time permits, may decline to accept a report for consideration at the meeting and instead may circulate it to all Members at a convenient time.
- d) Any other Member may, without notice, ask the Member making a report a question relevant to that report while the report is being considered. An answer may take the form set out in Procedure Rule 27 (7).

### **PROCEDURE RULE 30** **REPORTS FOR INFORMATION**

- 1) Reports for information that do not require a decision will not be included on the agenda for a Council meeting, unless the Chief Executive and the Chairman of the Council consider that it is essential to do so.

### **PROCEDURE RULE 31** **NOTICES OF MOTION**

- 1) Except for motions which can be moved without notice under Procedure Rule 33, written notice of every motion must be signed by at least two members and delivered to the Chief Executive A no later than midday on the tenth working day before the meeting, e.g. for a meeting on Monday, by 12:00 on the second preceding Monday. These will be entered in a book open for inspection.
- 2) Motion set out in agenda  
Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting.
- 3) A Member may only be party to one Motion.

- 4) Motions will not be accepted at a Special Meeting.
- 5) A Motion must relate to a matter where the Council has a duty and;
  - a) affects any part of Rutland or its inhabitants; or
  - b) where a Member has been unable to raise at a Committee Meeting or a Scrutiny Committee, although this requirement may be waived by the Chief Executive, in consultation with the Chairman of the Council, if it is considered justified in the circumstances.
- 6) The Chief Executive will determine if it is in order to place a Motion on the Council agenda which has been submitted in accordance with paragraphs 1-6 above.
- 7) The Chief Executive may, with the consent of the Members moving the Motion, refer it to any Committee for consideration. A Motion referred in this way will automatically be deemed moved and seconded when the Committee considers it.

### **PROCEDURE RULE 32** **MOTIONS GENERALLY**

- 1) All Motions must be proposed, the purpose of it explained and then seconded before any discussion is allowed.
- 2) A Member may not propose or second a Motion on an issue on which they have an interest and/or is disqualified from voting.
- 3) A Motion that is not set out in writing as part of the Agenda papers shall be read out by the Chief Executive or the Committee Administrator before a vote takes place. The person presiding at the meeting may require Motions of which notice is not given to be put in writing and given to the Chief Executive or the Committee Administrator immediately upon being seconded and before it is further discussed.
- 4) A proposer of a Motion may alter the Motion, if the alteration is such that it could be achieved by an amendment and the seconder consents to the alteration. The person presiding may require that the altered Motion be written down and handed to the Chief Executive or the Committee Administrator before it is considered.
- 5) The proposer may withdraw a Motion with the consent of the seconder. No other Member may speak on the Motion after the mover has asked for its withdrawal. If the seconder does not consent to the Motion being withdrawn the debate shall continue.
- 6) A Member, when seconding a Motion may reserve the right to speak until later in the debate as long as the intention to do this is indicated at the time the Motion is seconded.

### **PROCEDURE RULE 33** **MOTIONS AND AMENDMENTS WHICH MAY BE MOVED WITHOUT NOTICE**

- 1) When a Motion is under debate no other Motion shall be moved except the following which may be moved without notice:
  - a) To elect a person to preside at the meeting.
  - b) To amend minutes on the grounds of accuracy.
  - c) To annotate a point of clarification to the minutes of a previous meeting.
  - d) To vary the order of the items on the summons for the meeting.
  - e) To withdraw or alter a report submitted for consideration.
  - f) To adopt reports and recommendations of Committees, Scrutiny Committees and the Cabinet.
  - g) To refer an action to an appropriate body or organisation.
  - h) To amend the Motion.
  - i) To withdraw a Motion or amendment.
  - j) To propose a Motion arising out of consideration of a Committee or Cabinet report or of a decision of the body submitted for separate confirmation or a matter considered as an item of any other urgent business.
  - k) That a Councillor not be heard further in accordance with Procedure Rule 46 (Disorderly Conduct by Members).
  - l) That a Councillor leave the meeting in accordance with Procedure Rule 46 (Disorderly Conduct by Members).
  - m) That the subject of debate be referred to a Committee.
  - n) To extend the time limit for speeches in accordance with Procedure Rule 39 (Length of Speeches).
  - o) To exclude the public from a meeting, in accordance with Access to Information Rules (Procedure Rules 172 - 192); where the discussion is likely to lead to the disclosure of exempt or confidential information.
  - p) That a Procedure Rule be suspended or varied in accordance with Procedure Rule 51 (Variation of Procedure Rules).
  - q) That the question under consideration be put to the vote immediately in accordance with Procedure Rule 33 2) r) (Motions moved without Notice).
  - r) That the Council move to the next business on the agenda in accordance with Procedure Rule 332) r) (Motions moved without Notice).

- s) To adjourn the debate in accordance with Procedure Rule 33 2) r) (Motions moved without Notice).
  - t) To adjourn the meeting in accordance with Procedure Rule 33 2) r) (Motions moved without Notice).
  - u) To extend the allocation of time of the meeting in accordance with Procedure Rule 54 (Close of Meeting).
  - v) To give the consent of the Council where it is required under the Constitution.
  - w) To appoint a Special Committee, Sub-Committee or Working Party to consider a matter and to appoint the Chairman and Vice-Chairman and determine the Terms of Reference.
  - x) To authorise the sealing of documents.
  - y) To consider business required by or under statute to be transacted at the Annual Meeting.
  - z) To adopt a report or recommendation made by a Committee, Sub-Committee, Cabinet or officer, or any resolution consequential upon that adoption.
- 2) Procedure Rule 32 3) (Motions Generally) shall also apply to this Procedure Rule (Request to put a Motion in writing).

### **PROCEDURE RULE 34**

#### **AMENDMENTS AND ALTERATIONS TO MOTIONS**

- 1) Procedure Rule 32 (Motions Generally) shall apply to this Procedure Rule with the word amendment substituted for Motion.
- 2) An amendment may be moved without notice and shall be directly relevant to the Motion. It shall be either to leave out words or insert or add others or a combination of both. It must not be a direct negative of the Motion. No amendment shall be moved to an amendment.
- 3) A Member may alter a Motion they have moved with the consent of the seconder.
- 4) Only one amendment shall be dealt with at a time.
- 5) If an amendment is carried, the Motion as amended will take the place of the original Motion and shall become the substantive Motion upon which any further amendment may be moved.
- 6) If an amendment is rejected, another amendment may be moved on the original Motion but it must not have the same effect as an earlier amendment which has been rejected.

**PROCEDURE RULE 35**  
**RESCINDING A DECISION OF THE COUNCIL MADE IN THE PREVIOUS 6 MONTHS**

- 1) No Motion or amendment shall be moved to rescind any resolution of the Council which was passed within the preceding six months or which is to the same effect as one which has been rejected within that period unless:
  - a) it is recommended by a Committee, or the Cabinet;
  - b) notice of such Motion has been given by five Members of the Council; or
  - c) only one such Notice of Motion shall be allowed to rescind a decision under this Rule.

**PROCEDURE RULE 36**  
**MOTIONS ON EXPENDITURE**

A Motion which would substantially increase expenditure or reduce the revenue of the Council or involve capital expenditure other than arising from a recommendation of a Standing Committee or the Cabinet shall, when proposed and seconded, stand adjourned without discussion to the next Ordinary Council Meeting. Any Committee or the Cabinet affected by such Motion shall consider whether it wishes to submit a report on the Motion to the Council.

**PROCEDURE RULE 37**  
**MOTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL**

No discussion must take place on any question arising from the appointment, promotion, dismissal, salary, superannuation, conditions of service or conduct in respect of any Council employee, until a decision has been taken on whether to exclude the public under the Access to Information Rules (Procedure Rules 172 - 192).

**PROCEDURE RULE 38**  
**SPEECHES BY COUNCILLORS**

- 1) Apart from the person presiding, a Member shall stand when speaking unless the person presiding is satisfied that they are unable or would be in discomfort to do so.
- 2) Only one Member shall speak at a time. If two or more Members stand at the same time, the person presiding shall call one to speak and indicate the order in which anyone else will be heard. Anyone standing other than the first speaker shall then sit down until called to speak by the person presiding. This does not prevent a person standing to raise a point of order, point of information or give a personal explanation.
- 3) When a Member is speaking, the other Members shall remain seated, unless rising to make a point of order, point of information or in personal explanation.
- 4) Whenever the person presiding rises during a debate, any Member then standing shall resume their seat, and the Council shall be silent.



- 5) A Member may only speak once on a Motion and shall not speak again while it is the subject of debate, except:
  - a) to second an amendment;
  - b) speak once on an amendment moved by another Member;
  - c) if the Motion has been amended since they last spoke, to move a further amendment;
  - d) if their first speech was on an amendment moved by another member, to speak on the main issue after the amendment had been disposed of;
  - e) in exercise of a right of reply of the proposer under Procedure Rule 40 (Right of Reply);
  - f) on a point of order or to give a personal explanation, or to raise a point of information under Procedure Rules 41, 42 and 43.
- 6) A Member shall confine a speech to the matter under discussion unless it is to make a point of order, raise a point of information or to offer a personal explanation.
- 7) A Member must refrain from malice to retain the protection of speaking on privileged occasions.
- 8) The mover of a Motion has a right of reply at the close of the debate on the Motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original Motion shall have a right of reply at the close of the debate on the amendment but shall not otherwise speak on the amendment. The mover of an amendment shall have no right of reply to the debate on that amendment.
- 9) The person presiding shall have the right to determine that an issue has had a fair hearing and draw the debate to a close and put any Motion or amendment under discussion to a vote. They may also indicate whether any more, or, a limited number of speakers, will be heard in the conclusion of a debate before a vote is taken.

### **PROCEDURE RULE 39**

#### **LENGTH OF SPEECHES**

- 1) This Procedure Rule shall apply to both Motions and amendments.
- 2) No Member shall speak for more than five minutes even if the speech includes an amendment. The time permitted for a right of reply is in addition to the length of time allotted to the mover of a Motion.
- 3) Any two Members can submit a Motion without Notice to extend the time allowed for a speech by a maximum of five minutes. It shall be moved, seconded and put to the vote without discussion. In the absence of a time being specified in the Motion it shall be presumed to be for five minutes.
- 4) No more than two five minute extensions of time may be moved in relation to a single speech.

- 5) If the majority of Members present who are eligible to vote on the Motion/Amendment as appropriate agree to Procedure Rule 39 2) being suspended the maximum time for a speech shall be 10 minutes.
- 6) Paragraph 5 shall not apply to debates on the Budget when the Council Tax is being set or on a debate on the Council's overall Strategic Objectives. In these instances the mover of the motion will be allowed 15 minutes and paragraphs 1 to 4 above will apply.

## **PROCEDURE RULE 40**

### **RIGHT OF REPLY**

- 1) The proposer of a Motion shall have the right to reply to the debate at the following times:
  - a) At the close of the debate on the Motion.
  - b) At the close of the debate on an amendment to the Motion.
  - c) Before a Motion to proceed to the next business is put to the vote.
  - d) Before a Motion to adjourn the debate or refer the item to a Committee is put to the vote.
  - e) After a closure Motion described in Procedure Rule 33) r) i) and ii) is carried. (Motions moved without Notice)
- 2) The proposer of an amendment to a Motion shall not have the right of reply to either the debate on the amendment or to the debate on a substantive Motion formed by the carrying of the amendment.
- 3) When exercising the right of reply, a Member shall confine himself to replying to previous speakers where they have not already had this opportunity.
- 4) After a Member has exercised the right of reply a vote shall be taken immediately on the Motion or amendment under discussion.

## **PROCEDURE RULE 41**

### **POINT OF ORDER**

- 1) A Member may stand at any time in order to raise a point of order, and, with the consent of the person presiding shall be entitled to be heard immediately.
- 2) A point of order must relate only to an alleged breach of a specified statutory provision or a specified Procedure Rule, and how the Member raising it considers it has been broken.
- 3) A ruling on the point must be given by the person presiding before the debate continues. Their ruling shall not be open to discussion.

## **NOTE OF EXPLANATION ONLY**

### **(NOT TO BE READ AS PART OF THE PROCEDURE RULE)**

A Point of Order is essentially related to matters of procedure, e.g. whether Procedure Rules are being complied with, whether a Member is in order in speaking; whether a Motion or amendment is admissible, whether a Member is speaking to the point. Nothing relating to the substance of the debate nor to the accuracy of facts given, etc, can be a point of order. A point of order is a request by a Councillor to the person presiding at the meeting (the Chairman) to rule on an alleged irregularity in the constitution or conduct of the meeting.

## **PROCEDURE RULE 42**

### **POINT OF PERSONAL EXPLANATION**

- 1) If a Member makes a statement which is misunderstood or misquoted by another Member at a meeting, the Member may stand to make a personal explanation and with the consent of the person presiding at the meeting, be given the opportunity to correct the misunderstanding.
- 2) A personal explanation is not a point of order and shall be confined to some material part of a former speech by him which may appear to have been misunderstood in the present debate.
- 3) The ruling of the person presiding at the meeting on the admissibility of a personal explanation shall be final and not open to discussion.

## **NOTE OF EXPLANATION ONLY**

### **(NOT TO BE READ AS PART OF THE PROCEDURE RULE)**

A personal explanation is not a point of order and therefore only the person who made the original statement can make a personal explanation, which in any case must be confined to clarifying something already said which may have been misunderstood and must not introduce new matters.

## **PROCEDURE RULE 43**

### **POINT OF INFORMATION**

A Member may ask that a point of information, a matter of fact which should be drawn to the attention of the debate, be provided at any time during a debate. The person presiding may require that it be written on a piece of paper by the Member wishing to raise the point of information and passed to the Committee Administrator who shall immediately pass it to the person presiding.

## **PROCEDURE RULE 44**

### **RULES OF DEBATE FOR COUNCIL MEETINGS**

- 1) Except in cases where a recommendation has been tabled on the Agenda a Motion or amendment shall not be discussed unless it has been proposed and seconded.

- 2) The rules of debate are listed below. The Procedure Rule quoted applies in full in addition to any other requirements shown.
- a) Motions and Amendments - Procedure Rules 31 to 34 apply
  - b) Seconder's Speech – Procedure Rule 32 applies
  - c) Only One Member to stand at a Time - Procedure Rule 38 applies
  - d) Respect for the Chair - Procedure Rule 38 applies
  - e) Content of Speeches - Procedure Rule 38 applies
  - f) Length of Speeches - Procedure Rule 39 applies
  - g) When a Member May speak again - Procedure Rule 38 applies
  - h) Amendments to Motions – Procedure Rule 34 applies
  - i) One Amendment at a Time – Procedure Rule 34 applies
  - j) Further Amendments– Procedure Rule 34 applies
  - k) Alteration of Motion by Proposer – Procedure Rule 32 applies
  - l) Withdrawal of Motion or Amendment - Procedure Rule 32 applies
  - m) Right of reply – Procedure Rule 40 applies
  - n) Motions moved without Notice – Procedure Rule 33 applies
  - o) Points of Order – Procedure Rule 41 applies
  - p) Personal Explanation – Procedure Rule 42 applies
  - q) Points of Information – Procedure Rule 43 applies
  - r) Closure Motions
    - i) Member may at the conclusion of a speech of another Member move without comment:
      - “That the question be now put”;
      - “That the Council proceed to the next business”;
      - “That the debate be now adjourned”;
      - “That the Council do now adjourn”.
    - ii) If any of the these Motions are seconded, the person presiding shall, subject to a Member's right of reply in Procedure Rule 40 e), put the Motion to the vote unless they determine that the matter under discussion has not been sufficiently debated.
    - iii) If the Motion “That the question be now put” is carried, the matter under discussion shall be put to the vote without discussion.

- iv) If the Motion “That the Council proceed to the next business” is carried, the matter under discussion shall be deemed to have been determined.
  - v) If the Motion “That the debate be now adjourned” is carried, the matter under discussion shall be deemed to be disposed of for that meeting.
  - vi) If the Motion “That the Council do now adjourn” is carried, the matter under discussion shall be deemed to be disposed of until the meeting resumes after the adjournment.
  - vii) If a Motion under Procedure Rule 44 2) r) i) ii) iii) or iv) has already been put to the vote and been defeated, a similar Motion on the same item of business shall not be put to the vote unless the person presiding determines that the matter has already received a fair hearing.
- s) During consideration of any item relating to a planning application Procedure Rule 83 (Rules of Debate in Committees and Sub-Committees) shall apply.
  - t) Ruling of Chairman on Points of Order, Personal Explanation and Points of Information

The ruling of the person presiding is final and shall be accepted without discussion.

## **PROCEDURE RULE 45** **APPOINTMENTS BY THE COUNCIL**

- 1) Any candidate nominated for a position to be filled by the Council shall be openly proposed and seconded.
- 2) At the close of nominations the Chairman shall state the names of the candidates who have been proposed and seconded.
- 3) If the number of nominations does not exceed the number of vacancies or if the number of vacancies is not limited the Chairman shall without any debate put the appointment of the nominated candidates collectively as a substantive Motion upon which no amendments may be moved.
- 4) If there are more nominations than vacancies and no nominations are subsequently withdrawn the matter will be put to the vote. Unless a recorded vote is requested under Procedure Rule 8 the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.
- 5) If there are more candidates than vacancies and there is no absolute majority in favour of one person, the candidate with the least number of votes is withdrawn and a further ballot will be conducted. Ballots will continue until one candidate is elected with an absolute majority. In the event of a tie the election will be decided by the drawing of lots under the supervision of the Chief Executive or Committee Administrator.

## **PROCEDURE RULE 46** **DISORDERLY CONDUCT BY MEMBERS**

- 1) If the person presiding considers that a Member is behaving improperly by persistently disregarding their ruling, behaving irregularly, offensively, wilfully obstructing the business of the Council, being tediously repetitious or using unbecoming language, they may do any of the following, either separately or in sequence:
  - a) Move that the Member named be not further heard. This Motion does not need to be seconded and shall be put and decided without comment. If it is carried, the Member named shall not speak further at that meeting.
  - b) Move that the Member named shall leave the meeting. This Motion does not need to be seconded and shall be put and decided without comment. If it is carried, the Member shall forthwith leave the meeting immediately.
  - c) Suspend the sitting of the Council for a period not exceeding 30 minutes without discussion or a vote.
- 2) Any Member who considers that a named Member is behaving improperly, as illustrated in paragraph 1) may also move that the named Member be not further heard or shall leave the meeting immediately. If seconded, the Motion shall be put and determined without discussion.

#### **PROCEDURE RULE 47**

#### **DISORDERLY CONDUCT BY THE PUBLIC**

- 1) If a member of the public interrupts the proceedings, the person presiding shall warn him. If they continue the interruption, the person presiding shall order him to leave the room or order their removal. If a member of the public persistently creates a disturbance, the person presiding may adjourn the meeting for any period that they consider expedient in the circumstances.
- 2) If the person presiding considers that any general disturbance, misconduct or obstruction impedes the proper conduct of business they may, without taking a vote, order the room to be cleared and suspend the meeting for any period that they consider expedient in the circumstances.
- 3) The powers conferred by this Procedure Rule are in addition to any other powers which a person may lawfully exercise.

#### **PROCEDURE RULE 48**

#### **SEAL OF THE COUNCIL**

- 1) The Common Seal of the Council shall be kept in a safe place in the custody of the officer authorised by the Chief Executive.
- 2) The Common Seal of the Council shall not be affixed to a document unless the sealing, or the action requiring the sealing of a document has been properly

authorised by the Council, a Committee, Sub-Committee, Cabinet or by an officer exercising delegated power.

- 3) When the Common Seal is placed on a document it must be affixed by or on the instructions of the Strategic Director for Law and Governance or in their absence, the Head of Legal and Democratic Services, or a member of the Corporate Leadership Team and signed by and signed by the Chief Executive, or the Strategic Director for Law and Governance, or some other person authorised by them
- 4) A record shall be kept of every document, to which the Common Seal is applied. The record shall be available for any Member of the Council to inspect, upon request.
- 5) The Common Seal of the Council may be affixed either by physical means or by such electronic means as the Strategic Director for Law and Governance may from time to time authorise. References in this Rule and elsewhere in the Constitution to the Common Seal (or the Seal) of the Council and to the sealing of documents shall be taken to refer to the official seal and any accompanying attesting signature as being affixed either by physical means or by the electronic means provided for in this Rule.

## **PROCEDURE RULE 49**

### **AUTHENTICATION OF DOCUMENTS**

Where any document will be a necessary step in legal proceedings on behalf of the Council it shall be signed by the Chief Executive or the Monitoring Officer unless any enactment otherwise requires or authorises, or the Council gives the necessary authority to some other person for the purpose of such proceedings.

## **PROCEDURE RULE 50**

### **GENERAL LEGAL AUTHORITIES**

- 1) **Authority to take Urgent Legal Action**
  - a) The Chief Executive shall be authorised to defend any legal proceedings brought against the Council and to take any steps necessary to protect the Council's legal position until the institution of proceedings can be reported to the Committee responsible for the function concerned.
- 2) **Authority to sign Documents in Legal Proceedings**
  - a) The Chief Executive and the Monitoring Officer shall be authorised to sign the following on behalf of the Council:
    - i) any document necessary in legal proceedings on behalf of the Council, and
    - ii) information and complaints and to lay them on behalf of the Council for the purpose of Magistrates and other Courts proceedings.
- 3) **Authority to sign Contracts and Other Documents**

- a) The Chief Executive, the Monitoring Officer and Chief Officers shall be authorised to sign on behalf of the Council the following:
  - i) any contract not under seal; and
  - ii) any document necessary to give effect to a resolution of the Council, a Committee or Sub-Committee.

**4) Other Persons Authority to sign Documents**

- a) Other persons may be specifically authorised by the Chief Executive to sign documents described under paragraphs 2) and 3) above.

**PROCEDURE RULE 51**

**VARIATION AND SUSPENSION OF PROCEDURE RULES**

**1) Change or Revocation of Procedure Rules**

- a) No Procedure Rule shall be changed or revoked or no new Procedure Rule shall be made until it is recommended in a report to Council and approved by the Council.

**2) Suspension**

- a) The Council may suspend any Procedure Rule, subject to the exceptions in paragraph 3, so far as is lawful:
  - i) further to the recommendation of a Committee; or
  - ii) by notice of Motion given under Procedure Rule 31 (Notices of Motion); or
  - iii) by Motion without notice under Procedure Rule 33 (Motions which may be moved without notice), provided that at least half the Council are present.
- b) A suspension under this Procedure Rule shall last for the period specified by the Council, but not beyond the next Annual Meeting of the Council. Where no period is specified the suspension shall last only for the meeting at which it is adopted.

**3) Procedure Rules Which May Not Be Changed, Suspended or Revoked**

- a) Procedure Rules where the heading and the entire text is shown in bold print are Core Procedure Rules required by the Local Government and Housing Act 1989 and their substance must not be changed, suspended or revoked except by or as a result of further legislation.
- b) Procedure Rule 51 (Variation and Suspension of Procedure Rules) shall not be suspended.

**4) Ruling on Procedure Rules**



- a) The ruling of the person presiding at any meeting as to the construction or application of any of these Procedure Rules is final and shall not be challenged.
- b) The person presiding at the meeting shall determine any matter when a point of procedure is not covered by any Procedure Rule. Any such ruling is final and shall not be challenged.

## **PROCEDURE RULE 52**

### **ANY OTHER URGENT BUSINESS**

- 1) Any business which is not included on the agenda may only be considered if the person presiding decides that the item should be considered as a matter of urgency in view of its special circumstances. The reason for the urgency shall be stated in the Minutes and in any report relating to the item.
- 2) A Member wishing to have an item considered as an item of Any Other Urgent Business should seek the permission of the person presiding before the start of the meeting.
- 3) An Officer who wishes to have an item considered as an item of Any Other Urgent Business at a meeting must obtain the approval of the Chief Executive before asking the person presiding to accept it on the agenda.
- 4) All items of Any Other Urgent Business shall, wherever possible, be in writing and notified to the Chief Executive and the Monitoring Officer at least 24 hours before the meeting in a manner to be prescribed by Chief Executive.
- 5) Any resolution arising from discussion on the item shall be subject to Procedure Rules 32, 33 and 34 (Motions Generally, Motions and Amendments moved without notice and Amendments and Alterations to Motions).

## **PROCEDURE RULE 53**

### **ALLOCATION OF TIME FOR BUSINESS**

- 1) A Member may move, without comment that the time of any meeting shall be allocated between the items of business to be considered.
- 2) The Motion shall be seconded and put to the vote without comment. The Motion may only be put once at any meeting.
- 3) When the Council resolves that the time of the meeting shall be allocated among any remaining items of business on the agenda, each item shall be put to the vote without discussion when the time allocated to it has expired. The mover of the Motion which is put may, however, exercise the right of reply for a period not exceeding three minutes.

## **PROCEDURE RULE 54**

### **CLOSE OF MEETINGS**

- 1) No meeting of the Council shall continue after 9.30pm unless a Motion to extend the time is approved.
- 2) A Member may move that the time for the meeting be extended by 15 minutes in order to deal with any specific or any outstanding matter on the agenda.
- 3) No more than two extensions of 15 minutes shall be allowed.

## **SECTION 2 - COMMITTEE PROCEDURE RULES**

### **(Procedure Rule 55 - 97)**

#### **PROCEDURE RULE 55**

#### **DEFINITION AND INTERPRETATION OF PROCEDURE RULES**

Procedure Rule 1 shall apply as printed.

Any reference to Committee shall also mean Sub-Committee unless the context demands otherwise.

#### **PROCEDURE RULE 56**

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

- 1) Ordinary Meetings shall be held at Catmose on the dates approved by the Council and shall not start before 7.00pm, unless approved by the Chief Executive in consultation with the Chairman of the Committee.
- 2) This shall not apply to meetings of Committees which consider staffing matters only.
- 3) The Chief Executive, in consultation with the Chairman and Vice-Chairman of the Committee, may decide to hold Special Meetings elsewhere if this is expedient to the business to be transacted. The start of a Special Meeting shall not be before 7.00pm unless varied in exceptional circumstances by the Chief Executive in consultation with the Chairman and Vice-Chairman of the Committee.
- 4) A Special Meeting of a Committee may be called by the Chairman, or Vice Chairman in their absence or by a quorum of the voting members of the Committee.
- 5) If three voting Members of a Committee or Sub-Committee decide to call a Special Meeting in accordance with paragraph 4, they shall immediately inform the Chief Executive, specifying the business proposed to be transacted. The Chief Executive shall then immediately give notice to all Members of the Committee and all persons entitled to receive their papers that a Special Meeting has been called. This meeting must be held within 15 working days of the receipt of the request unless the Members requesting the meeting agree to a later date. The order for an agenda for a Special Meeting is prescribed in Procedure Rule 87 (Agenda for Special Meetings).

#### **PROCEDURE RULE 57**

#### **NOTICE OF AND SUMMONS TO A COMMITTEE MEETING**

Procedure Rule 3 shall apply with the word “Council” replaced by the words “Committee and Sub-Committee”.

## **PROCEDURE RULE 58** **RECORDING OF COMMITTEE MEETINGS**

Procedure Rule 5 shall apply.

## **PROCEDURE RULE 59** **ACCESS TO INFORMATION**

The Access to Information Rules (Procedure Rules 172 – 192) apply to meetings of Committees.

## **PROCEDURE RULE 60** **COMMITTEE DECISION-MAKING SYSTEM**

- 1) Subject to paragraphs 4 and 5, all agendas, minutes and reports submitted to Committee Meetings shall be presented in accordance with the style prescribed by the Chief Executive.
- 2) Subject to paragraphs 4 and 5, all Officers submitting reports shall adhere to the deadlines for receipt of Committee papers issued by the Chief Executive.
- 3) Subject to paragraphs 4 and 5, Officers shall submit a written summary of any oral report included on an agenda to the Chief Executive at least 24 hours before the time the meeting is due to commence.
- 4) The Chief Executive shall have the discretion to waive the requirements of this Procedure Rule when they are satisfied that there are special circumstances.
- 5) Paragraphs 1, 2 and 3 shall not apply to any business dealt with under Procedure Rule 95(Any Other Urgent Business).
- 6) The Chief Executive may place an item on an agenda which they consider requires the attention of the Committee.
- 7) Members’ Ability to Place Item on an Agenda

Any Member of the Council may submit an item of business for inclusion on the agenda and it shall be included with the approval of the Chairman of the Committee which shall not be unreasonably withheld unless:

- a) it is covered by an item already included on the agenda;
- b) less than five working days’ notice of the item has been given in writing to the Chief Executive;

- c) the Chief Executive is not provided with any additional information they consider necessary to enable Members to consider the item in accordance with the Access to Information Rules (Procedure Rules 172 – 192)

## **PROCEDURE RULE 61** **RECORD OF ATTENDANCE**

The name of every Member attending will be recorded in the official record of the meeting.

## **PROCEDURE RULE 62** **VOTING**

Procedure Rule 8 shall apply

## **PROCEDURE RULE 63** **QUORUM AT COMMITTEE AND SUB-COMMITTEE MEETINGS**

### **1) Committees**

- a) The quorum of every Committee shall be one quarter of the voting Members on the Committee (rounded up) with the exception of the Planning and Licensing Committee which will have a quorum of six (6) voting members.
- b) A quorum for a Committee with not less than 10 or more than 12 voting Members shall, therefore, be 3.

### **2) Sub-Committees**

- a) The quorum of a Sub-Committee shall be one quarter of the voting Members on the Sub-Committee (rounded up).
- b) A quorum for a Sub-Committee with not less than 5 or more than 8 voting Members shall, therefore, be 2.

### **3) Absence of a Quorum**

- a) In the absence of quorum for a Committee or Sub-Committee either at the start or during a meeting the Chairman may take any of the following courses of action:
  - i) Adjourn the meeting for a period of 15 minutes if it is expected that a Member will arrive in that period and, together with any Member or Members already present, will form a quorum so that the business on the agenda can proceed;
  - ii) If it is expected that an additional Member or Members will be present later, the Members present may proceed to discuss the business on the agenda on the understanding that, as soon as a quorum is present, the

business already transacted will be approved by those then present to authorise any action which was previously taken;

- iii) If the Committee or Sub-Committee only has authority to consider the item on the agenda and report to its appointing body, there is no reason why the meeting cannot proceed and a recommendation be made as normal;
- iv) If the Committee or Sub-Committee has delegated power to consider the item then instead of taking executive decisions the Members present can put forward a recommendation for consideration by its appointing body.

#### 4) **Substitution**

Procedure Rule 18 shall apply

### **PROCEDURE RULE 64**

#### **DISAGREEMENT BETWEEN SUB-COMMITTEES**

- 1) When there is a disagreement on any matter between any of an appointing Committee's Sub-Committees it shall be referred to the Council for consideration.
- 2) Any disagreement between Sub-Committees of two different appointing Committees shall be referred to the Council. This also applies to any Sub-Committees of the Standards Committee.
- 3) Whilst a matter is being considered by the appointing Committee or the Council, the Sub-Committees shall not report on it to the Council or submit a decision on it for confirmation by its appointing Committee or deal with it in exercise of delegated powers.
- 4) Any Sub-Committee concerned shall, unless the Council rejects it, accept the decision of its appointing Committee on how a disagreement should be resolved.

### **PROCEDURE RULE 65**

#### **AGENDA FOR FIRST MEETING IN THE MUNICIPAL YEAR**

#### 1) **Committees**

- a) Subject to the provisions of Procedure Rule 66 (3) (Variation of Order of Business) the order of business at the first meeting of a Committee shall be as follows:
  - i) To appoint a Vice-Chairman of the Committee to preside at the meeting in the absence of the Chairman.
  - ii) To receive apologies for absence
  - iii) To receive Declarations of Interest (pecuniary and non-pecuniary) and any declarations under Section 106 of the Local Government Finance Act 1992.
  - iv) To Note the Terms of Reference, Number of Places and Voting Places, Membership, and dates of meetings of the Committee.

- v) To appoint Designated Members as required.
- vi) To appoint Working Parties with their Terms of Reference, number of places, and Chairman and Vice-Chairman.
- vii) To appoint representative on outside bodies.
- viii) To consider any questions from Members received under Procedure Rule 75.
- ix) To consider any Notices of Motion from Members submitted under Procedure Rule 77.
- x) To consider and determine any matters referred to the Committee by Members which in the opinion of the Chief Executive cannot wait until the next scheduled meeting.

## 2) Sub-Committees

- a) Subject to the provisions of Procedure Rule 66 3) (Variation of Order of Business) the order of business at the first meeting of a Sub-Committee shall be as follows:
  - i) To appoint a Member of the Sub-Committee to preside at the meeting in the absence of the Chairman and Vice-Chairman.
  - ii) To receive apologies for absence.
  - iii) To receive Declarations of Interest (pecuniary and non-pecuniary) and any declarations under Section 106 of the Local Government Finance Act 1992.
  - iv) To Note the Terms of Reference, Number of Places and Voting Places, Membership, and dates of meetings of the Sub-Committee.
  - v) To appoint Designated Members as required.
  - vi) To appoint Working Parties with their Terms of Reference, number of places, and Chairman and Vice-Chairman.
  - vii) To appoint representative on outside bodies.
  - viii) To consider any questions from Members received under Procedure Rule 75.
  - ix) To consider any Notices of Motion from Members submitted under Procedure Rule 77.
  - x) To consider and determine any matters referred to the Sub-Committee by Members which in the opinion of the Chief Executive cannot wait until the next scheduled meeting.

**PROCEDURE RULE 66**  
**AGENDA FOR ORDINARY MEETING OF COMMITTEE AND SUB-COMMITTEE**

**1) Committees**

- a) Subject to the provisions of Procedure Rule 66 3) (Variation of Order of Business) the order of business for an Ordinary Committee Meeting shall be as follows:
- i) To appoint a Member to preside at the meeting in the absence of the Chairman and Vice-Chairman.
  - ii) To receive apologies for absence.
  - iii) To receive any changes to the membership, number of places, voting places or Terms of Reference of the Committee.
  - iv) To receive Declarations of Interest (pecuniary and non-pecuniary) and any declarations under Section 106 of the Local Government Finance Act 1992.
  - v) To confirm the Minutes of any Ordinary and Special Meetings of the Committee and receive an update on actions agreed in the minutes of the previous meeting.
  - vi) To receive reports from Sub-Committees which require Committee approval because the Sub-Committee do not have the delegated authority to act on the Council's behalf.
  - vii) To confirm Sub-Committee decisions which have been taken under the delegated authority of the Committee.
  - viii) To approve recommendations contained in all Working Party/Task and Finish Minutes.
  - ix) To receive petitions, deputations and questions from members of the public in accordance with Procedure Rule 73.
  - x) To consider any item of business which remains from the agenda of a previous meeting.
  - xi) To appoint Designated Members as required.
  - xii) To appoint or review the appointment of Working Parties with their Terms of Reference, number of places, and Chairman and Vice-Chairman.
  - xiii) To appoint representative on outside bodies.
  - xiv) To consider any questions from Members received under Procedure Rule 75.
  - xv) To consider any Notices of Motion from Members submitted under Procedure Rule 77.
  - xvi) To consider any matters referred to a Committee or Sub-Committee by Members which in the opinion of the Chief Executive cannot wait until the next scheduled meeting of the Committee or Sub-Committee to be determined.
  - xvii) To consider any other business specified on the agenda.
  - xviii) To approve the fixing of the Council's seal on any documents, other than those authorised in any item or report on the agenda, which are necessary to implement any of the Committee's decisions taken under the delegated

authority of the Council or to implement any decision taken by an Officer under delegated authority of either the Council or the Committee.

- xix) To renew the delegated powers to officers and to renew Proper Officer's appointments until the next Ordinary Meeting.
- xx) To consider Any Other Urgent Business at the discretion of the person presiding provided that it has been previously notified to him. (See Procedure Rule 95).

## 2) Sub-Committees

- a) Subject to the provisions of Procedure Rule 66 3) (Variation of Order of Business) the order of business for an Ordinary Meeting of a Sub-Committee shall be as follows:

- i) To receive apologies for absence.
- ii) To receive any changes to the membership, number of places, voting places or Terms of Reference of the Sub-Committee.
- iii) To receive Declarations of Interest (pecuniary and non-pecuniary) and any declarations under Section 106 of the Local Government Finance Act 1992.
- iv) To appoint a Member to preside at the meeting in the absence of the Chairman and Vice-Chairman.
- v) To confirm the Minutes of any Ordinary and Special Meetings of the Sub-Committee.
- vi) To approve recommendations contained in Working Party Minutes.
- vii) To receive petitions, deputations and questions from members of the public in accordance with Procedure Rule 73.
- viii) To consider any item of business which remains from the agenda of a previous meeting.
- ix) To appoint Designated Members as required.
- x) To appoint or review the appointment of Working Parties with their Terms of Reference, number of places, and Chairman and Vice-Chairman.
- xi) To appoint representatives on outside bodies.
- xii) To consider any questions from Members received under Procedure Rule 75.
- xiii) To consider any Notices of Motion from Members submitted under Procedure Rule 77.
- xiv) To consider any matters referred to a Committee or Sub-Committee by Members which in the opinion of the Chief Executive cannot wait until the next scheduled meeting of the Committee or Sub-Committee to be determined.
- xv) To consider any other business specified on the agenda.
- xvi) To approve the fixing of the Council's seal on any documents, other than those authorised in any item or report on the agenda, which are necessary to implement any of the Sub-Committee's decisions taken under the delegated authority of the Council or to implement any decision taken by an Officer under delegated authority of either the Council or the Sub-Committee.
- xvii) To renew the delegated powers to officers and to renew Proper Officer's appointments until the next Ordinary Meeting.



xviii) To consider Any Other Urgent Business at the discretion of the person presiding provided that it has been previously notified to him. (See Procedure Rule 95).

**3) The order of business in paragraphs 1) and 2) may be varied by**

- a) the direction of the person presiding, made with the unanimous consent of the Members present, but not so as to alter the order of items a) to f) but item x) in paragraph 1 above for a Committee or item r) in paragraph 2 above for a Sub-Committee may not be displaced or
- b) a resolution of the Committee, moved, seconded and put without comment, but not so as to alter the order of items a) to f) but item x) in paragraph 1 above for a Committee or item r) in paragraph 2 above for a Sub-Committee may not be displaced.

**PROCEDURE RULE 67**  
**AGENDA FOR SPECIAL MEETINGS OF COMMITTEES AND SUB-COMMITTEES**

- 1) The agenda for Special Meetings shall include items 1) a) i), ii) and iii) of Procedure Rule 66 1) (Agenda for Ordinary Meeting) plus the item or report for which the Special Meeting has been called. Item i) of Procedure Rule 66 1) a) may also be included provided that any petitions, deputations or questions received shall only be considered if they relate to an item on the agenda. No further business may be transacted. See also Procedure Rule 73 for Petitions, Deputations and Questions.

**PROCEDURE RULE 68**  
**CHAIRMAN/PERSON PRESIDING AT MEETINGS OF ALL COMMITTEES AND SUB-COMMITTEES, (INCLUDING SCRUTINY COMMITTEES)**

**1) Chairman**

- a) The Chairman and Vice-Chairman shall be elected annually and shall not serve beyond the Municipal Year in which they were appointed. They are eligible for re-election in subsequent years.
- b) The Chairman shall be elected by Council at the Annual Meeting. The Vice-Chairman shall be elected by the Committee at the first meeting of the municipal year.
- c) Any power of the Chairman in relation to the conduct of a meeting may be exercised by the person presiding.

**2) Absence of the Chairman**

In the absence of the Chairman the Vice-Chairman shall preside over the meeting.

**3) Absence of the Chairman and the Vice-Chairman**

- a) If the Chairman and the Vice-Chairman are absent from a meeting, the Chief Executive (or their representative) will invite Members to nominate a Member of the Council to take the chair. If discussion arises on that Motion the Chief Executive will exercise the powers of the person presiding until a Member is elected.
- b) If the Chairman arrives at a meeting when the Vice Chairman is in the Chair, the Chairman shall not preside until the item under consideration when they arrived has been determined. This shall also apply if either the Chairman or the Vice-Chairman arrive at a meeting when another Member is presiding.

**PROCEDURE RULE 69**  
**RESPONSIBILITY OF A CHAIRMAN/VICE-CHAIRMAN OR PERSON**  
**PRESIDING**

- 1) To preside over the meeting.
- 2) To protect the meeting from outside interference.
- 3) To seek to ensure that the proceedings of the meeting are lawful.
- 4) To ensure that reasonable efforts are taken to explain issues being discussed so that Members are clear on what they are being asked to vote.
- 5) To ensure that as far as possible information is complete.
- 6) To permit every point of view to have a fair hearing.
- 7) To ensure the opinions expressed are relevant to the matter in hand.
- 8) To ensure business is transacted with reasonable speed.
- 9) To ensure as far as possible that proceedings are friendly and free from personal vilification.
- 10) To co-operate with officers and Members.
- 11) To monitor if the meeting has a quorum at all times and to take appropriate action under Procedure Rule 63.
- 12) To ensure that the order of the agenda for the meetings is followed.
- 13) To move the Minutes of previous meetings.
- 14) To put any proposition moved and seconded by Members to a vote.
- 15) To exercise a second or casting vote in the event of equal voting upon a proposition.
- 16) To invite petitions, deputations and questions and respond accordingly.

- 17) To ensure that the Council's Rules of Debate relating to Committee and Sub-Committee meetings are followed.
- 18) To make rulings on the application of Procedure Rules.
- 19) To make rulings on points of order, points of personal explanation and points of information.
- 20) To move that a Member named be not heard further and put it to the vote without a seconder or a discussion.
- 21) To move that a Member named shall leave the meeting and to put it to the vote without a seconder or a discussion.
- 22) To adjourn meetings in the event of disorderly conduct by members.
- 23) To warn members of the public from interrupting proceedings and if necessary order that the public area is cleared and/or the meeting is adjourned.
- 24) To determine if items of Any Other Urgent Business should be included on the agenda.
- 25) To make statements to the press on the outcome of meetings.
- 26) To summon Special Meetings.
- 27) To postpone or cancel meetings and to approve holding Special Meetings at places other than Catmose or Oakham Castle.
- 28) To be consulted on taking urgent action between meetings.

## **PROCEDURE RULE 70**

### **ATTENDANCE AT MEETINGS BY MEMBERS WHO ARE NOT MEMBERS OF THAT COMMITTEE**

- 1) A Member may attend any meeting of a Committee of which he or she is not a Member, and they may be invited to speak at the Chairman's discretion. The Chairman will normally invite voting Members to speak first on an item but may allow a Member who is not a voting Member of the Committee to speak first if he or she considers this to be conducive to the issue under consideration. A Member who is attending in this capacity cannot vote.
- 2) The ability of a Member to speak is subject to any restrictions placed upon him or her arising from any pecuniary or Code of Conduct interests. Having declared an interest, he or she may not speak unless he or she has a dispensation in law or from the Secretary of State. Depending upon the interest, he or she may be permitted to remain, or be required to withdraw, under the same procedures as if he or she were a member of the Committee.

- 3) The right to attend does not apply to a meeting when a report is considered which contains exempt information in accordance with the Access to Information Rules (Procedure Rules 172 - 192), and the public and press have been excluded. Any Member who is not a Member of the Committee shall leave unless the Chief Executive and the Committee is satisfied that the Member needs to be present in order properly to carry out their duties as a Member and the Committee resolves to allow the Member to stay.
- 4) A Member who attends a meeting of which he or she is not a member must sit at the table provided for the meeting if they intend to be marked present and/or speak to the meeting. A Member must not sit in the public gallery and address comments to the meeting.

## **PROCEDURE RULE 71**

### **MINUTES**

The Minutes of Committee Meetings will be produced in accordance with the style prescribed by the Chief Executive to comply with any statutory requirements.

- 1) The Minutes of each Committee meeting shall be made available for public inspection at the Council's Catmose Offices and shall be sent to each Member of the Council together with or before the issue of the summons to attend the meeting at which the Minutes are to be submitted for approval.
- 2) The Minutes of each meeting of the Council shall be submitted by the Chief Executive for approval of their accuracy at the next Ordinary Council Meeting. (CORE PROCEDURE RULE)
- 3) Minutes of every Meeting shall be submitted to the following Ordinary Meeting for approval. The person presiding shall move that the Minutes be taken as read, approved and signed by him or her as a correct record.
- 4) No Motion on the Council Minutes shall be accepted except upon their accuracy.

## **PROCEDURE RULE 72**

### **REPORTS FOR INFORMATION**

- 1) Reports for information that do not require a decision will not be included on the agenda for a Committee meeting, unless the Chief Executive and the Chairman of the Committee consider that it essential to do so.

## **PROCEDURE RULE 73**

### **SUBMISSION OF PETITIONS DEPUTATIONS AND QUESTIONS FROM MEMBERS OF THE PUBLIC**

- 1) **General Issues Common To All Petitions, Deputations And Questions**

- a) Subject to paragraph 4 of this Procedure Rule any person may present a petition, deputation or question to an Ordinary Meeting of the Committee which is relevant to some matter in relation to which the Authority has functions, or which affects Rutland or any of its inhabitants. See also Procedure Rule 67 for provisions relating to a Special Meeting.
- b) The Chief Executive shall not accept a petition, deputation or question from a member of the public which:
  - i) is not about a matter for which the Council has a responsibility or which affects Rutland;
  - ii) which is offensive, frivolous, defamatory or is of a personal nature;
  - iii) is substantially the same as a petition, deputation or question which has been put at a meeting of the Council within the previous six months;
  - iv) appears to be from a staff group which has an alternative consultative forum;
  - v) is about any matter where there is a right of appeal to the courts, a tribunal or to a Government Minister or on any matter which, in the opinion of the Chief Executive, is of a quasi-judicial nature;
  - vi) is about any specific matter which would require confidential or exempt information to be divulged as defined in the Access to Information Rules (Procedure Rules 172 - 192).
- c) Any decision not to accept a petition, deputation or question shall be reported by the Chief Executive to the Committee together with a reason for refusal.

## 2) Petitions

- a) Full details on the format and submission of petitions can be found in the Rutland County Council Petitions Guidance under Section 5 of the Rutland County Council Constitution.
- b) A person wishing to submit a petition to a specific meeting of the Council, or any Scrutiny or Committee meeting shall give notice in writing of their intention to do so to the Democratic Services Team by no later than midday on the tenth working day before the meeting, for example for a meeting on Monday submission must be by midday the second preceding Monday. The person submitting the petition must also indicate who will present the petition to the meeting.
- c) The person presenting the petition will read out, or summarise, the prayer of the petition, indicate the number of signatories, and make further supporting remarks relevant to the petition. **The time for this shall be a maximum of three minutes.** The Chairman will refer the matter to another appropriate body of the Council within whose terms of reference it falls without discussion and in accordance with the Council's petition guidance, detailed in Part 5 of the Constitution, unless a relevant item appears elsewhere on the Agenda

- d) If a petition is presented to a meeting at which there is an agenda item on the same subject, a Member may propose that the item and the petition should be considered together and that the item be moved forward on the agenda.
- e) Petitions may be referred to the appropriate Committee or Sub-Committee without debate. If after the meeting it becomes apparent that the petition is more relevant to some other Committee or Sub-Committee, the Chief Executive, in consultation with the Chairmen of all the Committees and Sub-Committees involved, may refer it to another Committee or Sub-Committee.
- f) When a petition has been referred to a Committee or a Sub-Committee, a report shall be submitted to the Council on the action taken as soon as practicable and in any case not later than the second Ordinary Meeting after the meeting at which it was presented. The person submitting and presenting the petition shall be informed of the response and the date of the meeting at which it will be considered.
- g) Any petition presented to an Officer shall be reported to the appropriate Committee either individually or as part of a report on the same topic as the petition.

### 3) Deputations – Other than Planning Applications

- a) A request to present a deputation should be made to the Democratic Services Team by no later than midday on the third working day before the meeting at which that person wishes to put the question e.g. Wednesday 12:00 for a meeting the following Monday.
- b) The person making the request shall indicate the matter to which the request relates, the number, names and addresses of the persons who will form the deputation and who will speak. The Democratic Services Manager will advise the Chief Executive of any deputation received. The Chief Executive in consultation with the Chairman or Vice Chairman of the Committee has the authority to determine whether such requests are granted.
- c) A copy of the text of the deputation shall be provided to the Democratic Services Team ([democraticservices@rutland.gov.uk](mailto:democraticservices@rutland.gov.uk)) no later than midday on the day of the meeting or the deputation will not be received.
- d) The maximum time for presenting each deputation is 5 minutes. Any remarks shall relate to the subject matter and should not constitute a personal attack upon any person or contain any offensive language or aggressive gestures. A person speaking for a deputation shall be heard in silence.
- e) The Members of the Committee may ask questions of the members of the deputation for a further period of not more than five minutes. These questions shall be asked and answered without discussion.

### 4) Speaking in Relation to a Planning Application

- a) The rules regarding members of the public and other parties wishing to speak on a planning application can be found in the Rutland County Council Public Speaking Scheme in Part 5 of the Constitution.
- b) When notice of a request to speak at planning committee is received, planning shall arrange for the applicant (or the applicant's agent) to be notified that the request has been received.
- c) Requests to speak in relation to a planning application that is to be considered at the same meeting shall be heard at the same time as the planning application is considered.
- d) Where a large number of people have indicated a wish to speak on a particular application, the Chairman will ask that representatives of groups of people be nominated to speak in the interests of the efficient conduct of the meeting. The Chairman shall use their discretion as to whether to allow more than one person to address the meeting in relation to deputations that have been submitted.
- e) Comments shall relate to the subject matter and should not constitute a personal attack upon any person or contain any offensive language or aggressive gestures. Speakers shall be heard in silence.
- f) Speakers may be questioned at the meeting by Members of the Committee, but any public speaker may not question other speakers, Councillors or Officers.

## 5) Public Questions at Meetings

### General

- a) Each question and any subsequent questions shall be restricted to a single topic.
- b) Questions at Committee Meetings may be submitted under either the written procedure (paragraphs 5) c) to 5) m)) or the question's submitted at shorter notice procedure (paragraphs 5) n) to 5) w)).

### Written Notice of Questions

- c) Any person may put a written question to any Committee Meeting provided that the Democratic Services Team has received the question in full by no later than midday on the third working day before the meeting at which that person wishes to put the question e.g. Wednesday 12:00 for a meeting the following Monday. The notice shall be signed and shall include the questioner's address. The Democratic Services Team will advise the Chief Executive of any questions received.
- d) The Democratic Services Manager and/or the Chief Executive may reword the question with the agreement of the questioner.

- e) All questions shall be addressed to the person presiding at that meeting who may authorise another Member or Officer to provide an answer
- f) The total time allowed for each questioner including the response shall be five minutes.
- g) The person who gave notice of the question may ask a representative to put the question on their behalf, provided that this is notified to the Democratic Services Team when the notice of the question is given.
- h) All questions shall be circulated to all Members at or before the Committee Meeting at which they are to be asked.
- i) If a person who is to ask the question is not present at the meeting when the question is reached on the agenda, the question shall be taken as printed on the agenda and answered. A copy of the answer shall then be sent to the person asking the question. Where the question was to be asked by a representative and they are absent, then the person who gave notice of the question may still ask the question.
- j) After a question has received a reply, the questioner may ask one supplementary question for the purposes of clarifying the reply.
- k) Every question shall be put and answered without discussion. No discussion shall be permitted nor a resolution moved with reference to any question or reply to a question.
- l) The name of the person who gave notice of the question, the text of the question and a summary of the response shall be recorded in the Minutes.
- m) The name of the person who gave notice of the question, the text of the question and a summary of the response shall be recorded in the Minutes.
- n) Any questions not disposed of at the end of 30 minutes shall be answered in writing and reported for information to the next meeting.

#### **Questions submitted at short Notice**

- o) A member of the public may ask a question on any matter forming part of the agenda for the meeting provided that the question is restricted to a single topic and that a written copy of the question is given to the Committee Administrator 15 minutes before the meeting starts.
- p) The questioner should conform with the requirements set out in paragraph 1.2 otherwise the person presiding can rule that the question will not be answered and move onto the next question.
- q) The time allowed for any questions submitted under this procedure shall be a maximum of 15 minutes provided that it falls within the total time of 30 minutes



allowed for petitions, deputations and questions where notice has been given under paragraph 4.3.

- r) A maximum of one minute shall be allowed to ask each question and no supplementary question will be allowed. The maximum time for answering a question shall be two minutes.
- s) Questions shall be asked in the order in which the Committee Administrator receives them, except that the person presiding may take any questions of a similar nature together.
- t) When called to ask a question by the person presiding, the questioner will state their name and address for the record before they read their question.
- u) The Chief Executive or Committee Administrator may offer advice to reword a question if this is acceptable to the questioner.
- v) All questions shall be addressed to the person presiding at the meeting who may authorise another Member or Officer to provide an answer. If it is not possible or reasonable to answer the question at the meeting a written response will be supplied later. Any questions answered in writing will be reported for information to the next Ordinary Meeting.
- w) Every question shall be put and answered without discussion. No discussion shall be permitted nor a resolution moved with reference to any question or reply to a question.
- x) The name of the person who asked the question, a summary of the question and the response shall be recorded in the Minutes.

#### **PROCEDURE RULE 74**

#### **TIME ALLOWED FOR PETITIONS DEPUTATIONS AND QUESTIONS FROM MEMBERS OF THE PUBLIC**

- 1) The maximum time allowed for presenting petitions, deputations and questions at a meeting shall be 30 minutes.
- 2) Petitions, deputations and questions from members of the public shall be considered in the order in which they have been received. A member of the public may submit one petition, deputation or ask one question (not including a supplementary question) at the same meeting. Questions submitted without notice shall be asked in the order in which the questioner indicated their intention to ask a question to the Committee Administrator before the meeting. Questions without notice shall be asked when all other petitions, deputations and questions with notice have been considered.

#### **PROCEDURE RULE 75**

#### **QUESTIONS WITH NOTICE FROM MEMBERS**

Any Member may ask a question with notice at a meeting provided the Chief Executive receives a written copy of the question no later than midday on the third working day before the meeting at which that person wishes to put the question e.g. Wednesday 12:00 for a meeting the following Monday.

- 1) The person presiding may take questions without notice provided they are related to an item on the agenda.
- 2) Procedure Rule 73 a) and b) shall apply to questions asked by Members.
- 3) Questions may be asked of the Chairman of the Committee, a Designated Member or a representative on an outside body appointed by the Committee.
- 4) A list of the questions of which notice has been given shall be circulated to Members of the Council at, or before, the meeting at which they are to be asked. Questions will be asked in the order in which they have been received.
- 5) Each question shall be put and answered without discussion, but the Member to whom the question has been put may decline to answer it. The Member asking a question may ask one relevant supplementary question which shall be put and answered without discussion.
- 6) An answer to a question may be given by the person to whom it is addressed or by a Member or Officer on their behalf, and may take the form of
  - a) an oral answer;
  - b) a reference to information contained in some publication;
  - c) a written answer circulated to Members of the Committee before or with the summons for the next meeting at the latest.
- 8) Every question shall be relevant to some matter in relation to which the Committee has powers or a duty and which affects any part of Rutland or its inhabitants.
- 9) No discussion will be permitted nor any resolution moved with reference to any question or reply to a question.
- 10) The Chairman may authorise another Member or an Officer to answer any question.
- 11) The name of the Member asking the question, the text of the question and a summary of the response shall be recorded in the Minutes.

## **PROCEDURE RULE 76**

### **TIME ALLOWED FOR QUESTIONS FROM MEMBERS**

- 1) The maximum time allowed for asking questions at meetings shall be 30 minutes.

- 2) Questions from Members shall be considered in the order in which they have been received. When a Member wishes to ask more than one question (not including a supplementary question) at the same meeting, paragraph 3 will apply to determine the order in which they will be considered.
- 3) A second question from the same Member will only be considered when the first question of all other questioners have been received, and so on for any subsequent questions.

## **PROCEDURE RULE 77**

### **NOTICES OF MOTION FOR COMMITTEES**

- 1) Except for motions which can be moved without notice under Procedure Rule 79, written notice of every motion must be signed by at least two members and delivered to the Chief Executive no later than midday on the tenth working day before the meeting, e.g. For a meeting on Monday, by 12:00 on the second preceding Monday. These will be entered in a book open for inspection.

- 2) Motion set out in agenda

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

- 3) A Member may only be party to one Motion.
- 4) Motions will not be accepted at a Special Meeting.
- 5) A Motion must relate to a matter where the Council has a duty and;
  - a) affects any part of Rutland or its inhabitants; or
  - b) where a Member has been unable to raise at a Committee Meeting or a Scrutiny Committee, although this requirement may be waived by the Chief Executive, in consultation with the Chairman of the Council, if it is considered justified in the circumstances.
- 6) The Chief Executive will determine if it is in order to place a Motion on the Council agenda which has been submitted in accordance with paragraphs 1-6 above.
- 7) The Chief Executive may, with the consent of the Members moving the Motion, refer it to any Committee for consideration. A Motion referred in this way will automatically be deemed moved and seconded when the Committee considers it.

## **PROCEDURE RULE 78**

### **MOTIONS GENERALLY**

- 1) All Motions must be proposed and seconded before any discussion is allowed.

- 2) A Member may not propose or second a Motion on an issue on which they have an interest which would prevent him from speaking and/or disqualify him from voting on the Motion.
- 3) A Motion that is not set out in writing as part of the Agenda papers shall be read out by the Chief Executive or the Committee Administrator before a vote takes place. The person presiding at the meeting may require Motions of which notice is not given to be put in writing and given to the Chief Executive or the Committee Administrator immediately upon being seconded and before it is further discussed.
- 4) A proposer of a Motion may alter the Motion, if the alteration is such that it could be achieved by an amendment and the seconder consents to the alteration. The person presiding may require that the altered Motion be written down and handed to the Chief Executive or the Committee Administrator before it is considered.
- 5) The proposer may withdraw a Motion with the consent of the seconder. No other Member may speak on the Motion after the mover has asked for its withdrawal. If the seconder does not consent to the Motion being withdrawn the debate shall continue.
- 6) A Member, when seconding a Motion may reserve the right to speak until later in the debate as long as the intention to do this is indicated at the time the Motion is seconded.

## **PROCEDURE RULE 79**

### **MOTIONS AND AMENDMENTS WHICH MAY BE MOVED WITHOUT NOTICE**

- 1) When a Motion is under debate no other Motion shall be moved except the following which may be moved without notice:
  - a) To elect a person to preside at the meeting.
  - b) To amend minutes on the grounds of accuracy.
  - c) To annotate a point of clarification to the minutes of a previous meeting.
  - d) To vary the order of the items on the summons for the meeting.
  - e) To withdraw or alter a report submitted for consideration.
  - f) To adopt reports and recommendations of Sub-Committees.
  - g) To confirm Sub-Committee decisions.
  - h) To amend the Motion.
  - i) To withdraw a Motion or amendment.

- j) To propose a Motion arising out of consideration of a Sub-Committee report or of a decision of the Sub-Committee submitted for separate confirmation or a matter considered as an item of Any Other Urgent Business.
- k) That a Member not be heard further in accordance with Procedure Rule 86 (Disorderly Conduct by Members).
- l) That a Member leave the meeting in accordance with the provisions of Procedure Rule 86 (Disorderly Conduct by Members).
- m) That the subject of debate be referred to a Sub-Committee.
- n) To extend the time limit for speeches in accordance with Procedure Rule 39 (Length of Speeches).
- o) To exclude the public from a meeting, in accordance with the Access to Information Rules (Procedure Rules 172 - 192); where the discussion is likely to lead to the disclosure of exempt or confidential information.
- p) That a Procedure Rule be suspended or varied in accordance with Procedure Rule 88 (Variation of Procedure Rules).
- q) That the question under consideration be put to the vote immediately in accordance with Procedure Rule 44 2) r (Motions Moved Without Notice).
- r) That the Committee move to the next business on the agenda in accordance with Procedure Rule 44 2) r (Motions Moved Without Notice).
- s) To adjourn the debate in accordance with Procedure Rule 44 2) r (Motions Moved Without Notice).
- t) To adjourn the meeting in accordance with Procedure Rule 44 2) r (Motions Moved Without Notice).
- u) To extend the allocation of time of the meeting in accordance with Procedure Rule 97 (Close of Meeting).
- v) To give the consent of the Committee or Sub-Committee where it is required under these Procedure Rules.
- w) To appoint a special sub-Committee or working party to consider a matter and to appoint the Chairman and Vice-Chairman and determine the Terms of Reference.
- x) To authorise the sealing of documents.
- y) To consider business required by or under statute to be transacted at the first Meeting.

- z) To adopt a report or recommendation arising from a sub-Committee or an officer, or any resolution consequential upon that adoption
- 2) Procedure Rule 78 3) shall also apply to this Procedure Rule (Request to put a Motion in writing).

## **PROCEDURE RULE 80** **AMENDMENTS TO MOTIONS**

- 1) Procedure Rule 78 (Motions Generally) shall apply to this Procedure Rule with the word amendment substituted for Motion.
- 2) An amendment may be moved without notice and shall be directly relevant to the Motion. It shall be either to leave out words or insert or add others or a combination of both. It must not be a direct negative of the Motion. No amendment shall be moved to an amendment.
- 3) A Member may alter a Motion they have moved with the consent of the seconder, or alter a Motion which has been moved and seconded with the consent of the mover and the seconder.
- 4) Only one amendment shall be dealt with at a time.
- 5) If an amendment is carried, the Motion as amended will take the place of the original Motion and shall become the substantive Motion upon which any further amendment may be moved.
- 6) If an amendment is rejected, another amendment may be moved on the original Motion but it must not have the same effect as an earlier amendment which has been rejected.

## **PROCEDURE RULE 81** **RESCINDING A DECISION OF A COMMITTEE MADE IN THE PREVIOUS 6 MONTHS**

- 1) No Motion or amendment shall be moved to rescind any resolution of a Committee or Sub-Committee which was passed within the preceding six months or which is to the same effect as one which has been rejected within that period unless:
  - a) it is recommended by a Sub-Committee;
  - b) Notice of such Motion has been given by as many Members as would constitute a quorum of the Committee; or
  - c) only one such Notice of Motion shall be allowed to rescind a decision under this Rule.

## **PROCEDURE RULE 82**

### **MOTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL**

No discussion must take place on any question arising from the appointment, promotion, dismissal, salary, superannuation, conditions of service or the conduct of any Council employee, until a decision has been taken on whether to exclude the public and press under the Access to Information Rules (Procedure Rules 172 - 192).

## **PROCEDURE RULE 83**

### **RULES OF DEBATE IN COMMITTEES AND SUB-COMMITTEES**

- 1) Only one member shall speak at a time. If two or more members indicate a wish to speak, the person presiding shall call one to speak and indicate the order in which the others shall be heard. This does not prevent a person raising a point of order, a point of information or giving a personal explanation.
- 2) Whenever the person presiding stands up or speaks during a debate, any Member then speaking shall fall silent, and the meeting shall be silent.
- 3) The person presiding shall subject to paragraph 4, call upon Members of the Committee to speak before any other Member who may be present.
- 4) The person presiding may call upon a Member who is not a Member of the Committee to speak first if they feel that this would be conducive to the issue being considered.
- 5) A Member shall confine a speech to the matter under discussion unless it is to make a point of order, point of information or to offer a personal explanation.
- 6) A Member must refrain from malice to retain the protection of speaking on privileged occasions.
- 7) The person presiding will determine the length of time Members are allowed to speak on an item under consideration and will give every Member of the Committee or Sub-Committee an opportunity to speak on the item if the Member so wishes.
- 8) The person presiding may allow a Member to speak on more than one occasion on an item.
- 9) The person presiding may ask a Member to refrain from speaking if the Member is merely repeating comments already put forward by previous speakers.
- 10) The proposer of a Motion shall have the right to reply to the debate at the following times:
  - a) At the close of the debate on the Motion.

- b) At the close of the debate on an amendment to the Motion.
  - c) Before a Motion to proceed to the next business is put to the vote.
  - d) Before a Motion to adjourn the debate or refer the item to a Committee is put to the vote.
  - e) After a closure Motion described in Procedure Rule 79 1) r) and s) is carried.
- 11) The proposer of an amendment to a Motion shall not have the right of reply to either the debate on the amendment or to the debate on a substantive Motion formed by the carrying of the amendment.
  - 12) When exercising the right of reply, a Member shall confine himself to replying to previous speakers where they have not already had this opportunity.
  - 13) After a Member has exercised the right of reply a vote shall be taken immediately on the Motion or amendment under discussion.
  - 14) The person presiding shall have the right to determine when an issue has had a fair hearing and can indicate at any time that they intends to bring the debate to a close.

## **PROCEDURE RULE 84**

### **POINTS OF ORDER, PERSONAL EXPLANATION and INFORMATION**

Procedure Rules 41, 42 and 43 shall apply with the word "Council" replaced by the words "Committee and Sub-Committees" and that a Member need not stand but can politely indicate a wish to speak to the person presiding.

## **PROCEDURE RULE 85**

### **APPOINTMENTS MADE BY COMMITTEES AND SUB-COMMITTEES**

- 1) Any candidate for any position to be filled by a Committee shall be openly proposed and seconded.
- 2) At the close of nominations the Chairman shall state the names of the candidates who have been proposed and seconded.
- 3) If the number of nominations does not exceed the number of vacancies or if the number of vacancies is not limited the Chairman shall without any debate put the appointment of the nominated candidates collectively as a substantive Motion upon which no amendments may be moved.
- 4) If there are more nominations than vacancies and no nominations are subsequently withdrawn, the Committee Administrator will provide a ballot paper, or other suitable method, to enable each Member of the Council present to cast a vote. Alternatively the Chairman, with the unanimous consent of the meeting, may choose to make an appointment by means of a show of hands for each of the Members nominated.



- 5) The conduct of the ballot will be under the sole direction of the Chief Executive or the Committee Administrator and only those Members who are present, and are not disqualified from voting, when the ballot is taken shall be entitled to vote. The Committee Administrator will hand a ballot paper to each member present. Members wishing to vote will then be required to place the ballot paper in a box or other suitable receptacle provided by the Committee Administrator.
- 6) The period for voting shall not be more than five minutes at the end of which the Chief Executive or the Committee Administrator will count the votes and announce the result.
- 7) If there are more candidates than vacancies and there is no absolute majority in favour of one person, the candidate with the least number of votes is withdrawn and a further ballot will be conducted. Ballots will continue until one candidate is elected with an absolute majority. In the event of a tie the election will be decided by the drawing of lots under the supervision of the Chief Executive or Committee Administrator.

## **PROCEDURE RULE 86**

### **DISORDERLY CONDUCT BY MEMBERS**

- 1) If the person presiding considers that a Member is behaving improperly by persistently disregarding their ruling, by behaving irregularly, offensively, wilfully obstructing the business of the Committee, being tediously repetitious or using unbecoming language, they may do any of the following either separately or in sequence:
  - a) Move that the Member named be not further heard. This Motion does not need to be seconded and shall be put and decided without comment. If it is carried, the Member named shall not speak further at that meeting.
  - b) Move that the Member named shall leave the meeting. This Motion does not need to be seconded and shall be put and decided without comment. If it is carried, the Member shall leave the meeting immediately.
  - c) Suspend the meeting for a period not exceeding 30 minutes without discussion or a vote.
- 2) Any Member who considers that a named Member is behaving improperly as indicated in paragraph 1) may also move that the named Member be not further heard or shall leave the meeting immediately. If seconded, the Motion shall be put and determined without discussion.

## **PROCEDURE RULE 87**

### **DISORDERLY CONDUCT BY THE PUBLIC**

- 1) If a member of the public interrupts the proceedings, the person presiding shall warn him. If they continue the interruption, the person presiding shall order him to leave

the room or order their removal. If a member of the public persistently creates a disturbance, the person presiding may adjourn the meeting for any period that they consider expedient in the circumstances.

- 2) If the person presiding considers that any general disturbance, misconduct or obstruction impedes the proper conduct of business they may, without taking a vote, order the room to be cleared and suspend the meeting for any period they consider expedient in the circumstances.
- 3) The powers conferred by this Procedure Rule are in addition to any other powers which a person may lawfully exercise.

## **PROCEDURE RULE 88**

### **VARIATION AND SUSPENSION OF PROCEDURE RULES**

#### **1) Change or Revocation of Procedure Rules**

- a) No Procedure Rule shall be changed or revoked and no new Procedure Rule shall be made until it has been recommended in a report to Council and approved by the Council.

#### **2) Suspension**

- a) The Committee may suspend any Procedure Rule so far as is lawful:
  - i) further to the recommendation of a Sub-Committee; or,
  - ii) by notice of Motion given under Procedure Rule 77 (Notices of Motion); or
  - iii) by Motion without notice under Procedure Rule 79 (Motions which may be moved without notice), provided that at least half the voting members of the Committee are present.
- b) A suspension under this Procedure Rule shall last for the meeting at which it is adopted. If a Committee wishes for a suspension longer than this it may request the Council to suspend the Procedure Rule to the next Annual Council Meeting or for a shorter period as required.

#### **3) Procedure Rules which may not be changed, suspended or revoked**

- a) Procedure Rules where the heading and the entire text is shown in bold print are Core Procedure Rules required by the Local Government and Housing Act 1989 and other legislation and their substance must not be changed, suspended or revoked except by or as a result of further legislation.
- b) Procedure Rule 88 (Variation of Procedure Rules) shall not be suspended.

#### **4) Ruling on Procedure Rules**

- a) The ruling of the person presiding at any meeting as to the construction or application of any of these Procedure Rules is final and shall not be challenged.

- b) The person presiding at the meeting shall determine any matter when a point of procedure is not covered by any Procedure Rule. Any such ruling is final and shall not be challenged.

## **PROCEDURE RULE 89**

### **REFERRAL OF DECISIONS**

A decision of a Committee or Sub-Committee having delegated powers may be referred to Council by one-third (rounded up) of the Members of that Committee or Sub-Committee giving notice either verbally at the meeting or by submitting a notice in writing to the Chief Executive within five working days of the decision being made.

- 1) A Member may not refer a decision of a Committee or Sub-Committee to Council where they have an interest which would prevent him from speaking or voting on the matter.
- 2) Anyone who has reasonable grounds to believe that a Member has referred a decision of a Committee or Sub-Committee to the Council when they have an interest which would prevent them from speaking and/or disqualify them from voting on the matter may refer the matter to the Monitoring Officer. The Monitoring Officer shall determine whether it is reasonable to consider that the Member has such an interest and whether it is in order for the Member to refer the decision to the Council. The Monitoring Officer will submit a report to the Council in all instances where action has been requested or taken under this Procedure Rule. The Council will then determine whether to refer the matter to the Standards Committee.
- 3) If any decision is referred under paragraph 1) it shall be considered at the next Ordinary Council Meeting provided that it is received in time to be included on the agenda. Otherwise, it shall be reconsidered at the first subsequent Ordinary Council Meeting. However, if the Chief Executive considers that it is in the Council's interests to determine any matter which has been referred before the next scheduled Ordinary Meeting of the Council, the matter may be considered at a Special Council Meeting.
- 4) When a decision has been referred to the Council, no further action will be taken to implement the decision until the Council has determined the matter.
- 5) When a decision of a Committee has been referred to the Council and it has been referred back to the Committee for reconsideration there shall be no right of referral to the subsequent decision of the Committee on the matter.
- 6) When it is essential that action must be taken within the period normally allowed Members to refer a decision, officers will indicate on the agenda that the Committee or Sub-Committee will be asked to decide that the matter is of such urgency that no referral should be allowed. The referral procedure can only be removed if more than half of the voting members of the Committee agree. For a Committee of ten voting Members it will need at least six Members to vote in favour of this provision. The person presiding may not use a second or casting vote to vote in favour of removing the right of referral.

- 7) No referral shall be made in respect of the following decisions:
- a) Election of Chairman or Vice-Chairman.
  - b) Exclusion of the public and press.
  - c) Dates and/or times of meetings.
  - d) Approval of minutes for accuracy and the confirmation of Sub-Committee decisions, but not the confirmation of Working Party minutes.
  - e) Matters relating to the membership, functions and Terms of Reference of Committees and Sub-Committees.
  - f) A decision that no referral may be made on grounds of urgency.
  - g) Items submitted for information only.
  - h) Decisions of a Committee or Sub-Committee summoned to hear a staff or statutory appeal.
  - i) Decisions in respect of specific licensing applications and/or enforcement action, decisions in respect of specific discretionary rate relief applications, and other matters which, in the opinion of the Chief Executive, are considered to be of a quasi-judicial nature.

**PROCEDURE RULE 90**  
**APPOINTMENT OF JOINT COMMITTEES AND JOINT MEETINGS OF COMMITTEES**

**1) Joint Committees**

- a) The date of the first ordinary meeting of a Joint Committee may be set by the Council or may be summoned by the Chairman of a Committee forming part of the Joint Committee.
- b) At the first meeting of the Joint Committee, the Committee may determine dates of future meetings. In the absence of dates of future meetings being determined, the Chairman of the Joint Committee may summon a meeting as they thinks fit.
- c) The quorum of a Joint Committee shall be the equivalent of the combined quorum for each of the constituent Committees and/or Sub-Committees forming the Joint Committee. A Member present who is a Member of more than one of the Committees or Sub-Committees concerned shall indicate which one they represent for the purposes of the quorum. If a quorum is not present for each of the constituent Committees and/or Sub-Committees then the Joint Committee will not have a quorum.

- d) The procedure for meetings of Joint Committees shall be the same as those for the Council's Standing Committees.

## 2) **Joint Meetings of Committees**

- a) Two or more Committees or Sub-Committees may meet together for the purposes of common consultation regardless of paragraph 1) above. However, any such meeting shall have no executive powers and any decision taken shall be of an advisory nature only. Committees and Sub-Committees meeting in this way must then present a report to the Council requesting that their recommendations be approved.
- b) The agenda for a Joint Meeting of Committees or Sub-Committees shall include items 1) a) of Procedure Rule 66 plus the item or report for which the meeting has been called. Item ix) of Procedure Rule 66 may also be included provided that any petitions, deputations or questions received shall only be considered if they related to the item on the agenda. No further business may be transacted.

## **PROCEDURE RULE 91** **WORKING PARTIES**

- 1) Committees and Sub-Committees may establish a Working Party of Members, Officers and others to discuss any matter within the Committee's or Sub-Committee's powers.
- 2) Working Parties shall have no power to exercise any function or take any action on behalf of the Council, nor incur any expenditure.
- 3) On establishing a Working Party, a Committee shall define its membership, constitution, Terms of Reference and the manner and time at which it shall report. The appointing Committee can determine that the Working Party shall report to another Committee or Sub-Committee.
- 4) Working Parties shall be appointed to serve until the first meeting of the appointing Committee after the next Annual Meeting of the Council or for a shorter period as the Committee may determine.
- 5) When a Working Party is established, the approval of the Council must be obtained to authorise the attendance at the Working Party as an approved duty for the purposes of payments for travelling and subsistence etc in accordance with the Members' Allowance Scheme. No Special Responsibility Allowance will be paid in respect of Working Party Chairmen or Vice-Chairmen.
- 6) The lead officer present shall record the attendance of those present at any meetings of a Working Party and forward the list to the Senior Committee Administrator. In the absence of any officer this shall be done by the Chairman of the Working Party.

## **PROCEDURE RULE 92** **DESIGNATED MEMBERS - Appointment and Responsibilities**

Designated Members can be appointed by Committees and Sub-Committees to provide advice and to brief Members and Officers on a specific activity which is a function of the Council and has been delegated to the Committee or Sub-Committee. Designated Members have no executive authority to act or to incur expenditure. Any executive action may only be taken in consultation with an Officer, where delegated authority already exists, or through a formal resolution of a Committee or a Sub-Committee provided they have delegated authority to take the decision.

### **PROCEDURE RULE 93** **RESPONSIBILITIES OF MEMBERS**

See Article 2 of the Constitution.

### **PROCEDURE RULE 94** **URGENT ACTION BETWEEN MEETINGS**

A Chief Officer may, after consultation with the Chairman and Vice-Chairman of the appropriate Committee or Sub-Committee, take any urgent action which they consider necessary prior to the next meeting of the Committee or Sub-Committee. Any such action shall be reported for the information and approval of the Committee or Sub-Committee at its next meeting.

### **PROCEDURE RULE 95** **ANY OTHER URGENT BUSINESS**

Procedure Rule 52 shall apply with the word "Council" replaced by the words "Committee and Sub-Committees".

### **PROCEDURE RULE 96** **ALLOCATION OF TIME**

Procedure Rule 53 shall apply with the word "Council" replaced by the words "Committee and Sub-Committees".

### **PROCEDURE RULE 97** **CLOSE OF MEETINGS**

- 1) Procedure Rule 54 shall apply with the word "Council" replaced by the words "Committee and Sub-Committees".

## **SECTION 3 - CABINET PROCEDURE RULES** **(Procedure Rules 98 - 131)**

### **PROCEDURE RULE 98** **DISCHARGE OF FUNCTIONS**

- 1) The Leader may provide executive functions to be discharged by:
  - a) The Cabinet as a whole
  - b) a Committee of the Cabinet;
  - c) an individual Member of the Cabinet
  - d) an officer;
  - e) joint arrangements; or
  - f) another local authority.
- 2) The Leader will present to the Annual Meeting of the Council a written record of delegations to be made by him or her for inclusion at [Part 8 of the Council's Constitution](#). The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:
  - a) the names and wards of the Members appointed to the Cabinet;
  - b) the extent of any authority delegated to Cabinet Members individually, including details on the limitation on their authority;
  - c) the terms of reference and constitution of such Executive Committees as the Leader appoints and the names of the Cabinet members appointed to them;
  - d) the nature and extent of any delegation of Executive functions to any other authority or any joint arrangements, and the names of those Cabinet Members appointed to any joint committee for the coming year; and
  - e) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

## **PROCEDURE RULE 99**

### **SUB-DELEGATION OF EXECUTIVE FUNCTIONS**

- 1) Where the Cabinet, a Committee of the Cabinet or an individual Member of the Cabinet is responsible for an executive function, they may not delegate further to a sub-committee, joint arrangements or an officer without the consent of the Leader
- 2) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the body who delegated.
- 3) Where the Cabinet or a Cabinet Member delegates to a Committee, or joint arrangements, it or they shall make known publicly the terms of reference and constitution of the committee. Likewise, when delegating to an officer, it or they shall

make known the nature and extent of the delegation, together with the details of any limitation on that delegation.

## **PROCEDURE RULE 100** **AMENDMENTS TO DELEGATIONS**

- 1) The Leader may amend the scheme of delegation relating to executive functions at any time. To do so, the Leader must give written notice to the Monitoring Officer and to the person, body or Committee concerned as soon as possible after the decision. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body Committee or the Cabinet as a whole. The Monitoring Officer will present a report to the next Ordinary meeting of the Council setting out the changes made by the Leader.
- 2) Where the Leader seeks to withdraw delegation from a Committee of the Cabinet, notice will be deemed to be served on that Committee when he or she has served it on its Chairman.

## **PROCEDURE RULE 101** **PUBLIC AND PRIVATE MEETINGS**

- 1) Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules (Procedure Rules 172 - 192).
- 2) Where Executive decisions are delegated to a Committee of the Cabinet, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.
- 3) All Cabinet meetings to any sub-committees where executive decisions are to be made will be held in public except when the Leader or Cabinet has resolved to:
  - a) exclude the press and public from all or part of the meeting in accordance with the Access to Information Rules or
  - b) exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at the meeting in accordance with Procedure Rules 46 and 47.
- 4) Where the Cabinet or a sub-committee will need to meet in private to take a decision which involves exempt or confidential information, the meeting may only take place if:
  - a) Notice has been published at the Council Offices and on the Council's website giving the reasons for holding the meeting in private at least 28 clear (calendar) days before the meeting. This notice will be included in the Forward Plan.
  - b) A further notice is published at the Council Offices and the Council's website at least 5 clear working days before the meeting giving reasons for holding the



meeting in private and any representations received. This notice will form part of the Cabinet agenda.

- 5) Where the date of a private meeting of the Cabinet or its sub-committees makes compliance with 4 (a) and (b) impractical, the meeting may only be held and any decision taken if agreement is obtained that the meeting is urgent and cannot reasonably be deferred from:
  - a) The Chairman of the relevant Scrutiny Committee
  - b) If there is no Chairman or he/she is unable to act, then the Chair of Council or
  - c) In his/her absence the Vice Chair of Council
- 6) A notice setting out the reasons why the private meeting is urgent and cannot reasonably be deferred must be published at the Council Offices and on the Council's website as soon as reasonably practicable after the agreement has been obtained.

## **PROCEDURE RULE 102**

### **MEETINGS OF THE CABINET**

- 1) The Cabinet will meet at least 10 times per year at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or another public location to be agreed by the Leader.
- 2) Meetings of the Cabinet will be held at a time determined by the majority of the Cabinet Members so as to enable all Cabinet Members to play an active role within the Cabinet.

## **PROCEDURE RULE 103**

### **THE CABINET AGENDA**

- 1) The Leader will decide upon the schedule for meetings of the Cabinet. They may put on the agenda of any Cabinet meeting any matter which they wish, whether or not authority has been delegated to the Cabinet, a Committee of it or officer in respect of that matter. The Chief Executive will comply with the Leader's requests in this respect.
- 2) Any member of the Cabinet may require the Chief Executive to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. The Chief Executive will comply with such a request.
- 3) The Chief Executive will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant Scrutiny Committee or the full Council have resolved that an item be considered by the Cabinet.
- 4) There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by Scrutiny Committees.

- 5) Any member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. The number of such items will be at the discretion of the Leader.
- 6) The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

## **PROCEDURE RULE 104**

### **PROCEDURE BEFORE TAKING EXECUTIVE DECISIONS**

Subject to Procedure Rules 106 and 107 below, a key decision may not be taken unless:

- 1) The Forward Plan of Executive Decisions has been published and includes the matter in question for a period of at least 28 clear (calendar) days;
- 2) At least five clear working days have elapsed since the publication of a report;
- 3) Where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Access to Information Rules in Part 4 of this Constitution.

## **PROCEDURE RULE 105**

### **THE FORWARD PLAN OF EXECUTIVE DECISIONS**

- 1) The Forward Plan of Executive Decisions will contain all matters subject to an executive decision to be taken by the Cabinet, a Committee of the Cabinet, individual Cabinet Members, officer key decisions, or under joint arrangements in the course of the discharge of an Executive function during the period covered by the Forward Plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:
  - a) that a key decision is being made on behalf of the local authority
  - b) the matter in respect of which a decision is to be made;
  - c) where the decision taker is an individual, his or her name and title, if any and where the decision taker is a body, its name and details of membership;
  - d) the date on which, or the period within which, the decision will be taken;
  - e) a list of the documents submitted to the decision taker for consideration in relation to the matter.

- f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available.
  - g) that other documents relevant to those matters may be submitted to the decision maker; and
  - h) the procedure for requesting details of those documents (if any) as they become available.
- 2) Exempt information need not be included in the Forward Plan and confidential information cannot be included.
  - 3) By agreement with the relevant Cabinet Member, the executive decision-making timetable can be delayed to allow a scrutiny Committee to consider and make recommendations on a policy proposal or proposed decision, prior to the decision being taken. If the Cabinet Member and Scrutiny Chair are unable to reach agreement upon whether a matter should be referred for pre-scrutiny, the Leader will make the final decision as to whether the matter should be referred to a Scrutiny Committee before the decision is made.

## **PROCEDURE RULE 106**

### **GENERAL EXCEPTION – URGENCY**

- 1) If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to Procedure Rule 107 below, the decision may still be taken if:
  - a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first period to which the next forward plan relates;
  - b) the Chief Executive has informed the Chairman of the relevant Scrutiny Committee, or if there is no such person, each Member of that Committee by notice in writing, of the matter to which the decision is to be made;
  - c) the Chief Executive has made copies of that notice available to the public at the offices of the Council; and
  - d) at least five clear working days have elapsed since the Chief Executive complied with paragraphs (b) and (c) above.
- 2) Where such a decision is taken collectively, it must be taken in public subject to these provisions.

## **PROCEDURE RULE 107**

### **SPECIAL URGENCY**

- 1) If by virtue of the date by which a decision must be taken the provisions in Procedure Rule 138 above cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the relevant Scrutiny Committee, or if the Chairman is unable to act, then the agreement of the Chair of Council, or in their absence the Vice Chair will suffice.

## **PROCEDURE RULE 108**

### **REPORTS ON SPECIAL URGENCY DECISIONS**

- 1) The Leader will submit reports to the Council on any Executive decisions taken in the circumstances set out in Procedure Rule 107 (Special Urgency) above in the preceding six months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **PROCEDURE RULE 109**

### **ATTENDANCE AT MEETINGS OF THE CABINET**

- 1) **Cabinet Members:** Members of the Cabinet or its Committees will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.
- 2) All Cabinet Members will be served notice of all meetings of Committees of the Cabinet, whether or not they are Members of that Committee.
- 3) **Officers:** Directors with an item to be discussed at a public meeting of the Cabinet shall be invited to attend the meeting and speak to that item and to have their views recorded.
- 4) **Non-executive Members:** Non-executive Members may attend meetings of the Cabinet except where exempt and confidential matters are being discussed and the Cabinet decides to exclude the public and press in accordance with the Access to Information Rules.
- 5) If the Cabinet decides to exclude the public and press in accordance with the Access to Information Rules, the Cabinet may resolve to allow any non-executive Members to remain in the meeting.
- 6) Non-executive Members may only speak at the prior invitation of the person presiding at meetings of the Cabinet.

## **PROCEDURE RULE 110**

### **QUORUM OF THE CABINET**

- 1) The quorum for a meeting of the Cabinet, or a Committee of it, shall be 3 members.
- 2) If a quorum is not present the person presiding may either:
  - a) adjourn the meeting for a period to allow other Cabinet Members to attend and make the meeting quorate;
  - b) continue with the business if it is known that other Cabinet Members will attend during the course of the meeting. At the point the other Members attend and make the meeting quorate, the business already discussed will be explained and a decision taken in the usual manner;
  - c) adjourn the meeting to another date and time.

## **PROCEDURE RULE 111** **RECORDING OF MEETING**

Procedure Rule 5 shall apply

## **PROCEDURE RULE 112** **RECORD OF ATTENDANCE**

The name of every Member attending will be recorded in the official record of the meeting.

## **PROCEDURE RULE 113** **METHOD OF VOTING**

- 1) Every proposition shall, unless otherwise required by these Procedure Rules or Statute, be determined by show of hands.
- 2) In taking the votes on any proposition, only those Members of the Cabinet who are present when the Chairman puts the proposition shall be entitled to vote provided that they are not disqualified from voting on the item.
- 3) In the case of a tied vote, the person presiding shall have a second or casting vote.

## **PROCEDURE RULE 114** **RECORDING OF VOTING**

- 1) Any Members forming a quorum for the meeting who are not disqualified from voting and clearly indicate their request before a vote is taken on a proposition can require that the voting shall be recorded. If any Members are disqualified from voting this number may be reduced to a quarter of those present who are not disqualified. The Minutes of the meeting shall then show whether a Member gave their vote for or against the proposition or whether they abstained.
- 2) If paragraph 1 has not been invoked, any Member may indicate immediately after any vote that they requires the Minutes to record whether they gave their vote for or against the proposition or whether they abstained.

## **PROCEDURE RULE 115** **RECORD OF CABINET DECISIONS**

- 1) After any meeting of the Cabinet or any of its Committees, whether held in public or in private, a Record of Decisions will be produced as soon as is practicable and within the timetable for call-in arrangements. The record will include a statement of reasons for each decision and any alternative options considered and rejected at the meeting.

- 2) **The Record of a Cabinet Meeting shall be submitted by the Chief Executive for approval of their accuracy at the next Ordinary Cabinet Meeting. (CORE PROCEDURE RULE)**
- 3) Records of an Ordinary Meeting shall not be put to a Special Meeting for approval.
- 4) When the Record of a meeting is submitted to a meeting for approval, the person presiding shall move that the record be taken as read, approved and signed by them as a correct record. Only a Motion to change the accuracy of record submitted for approval shall be accepted.

## **PROCEDURE RULE 116**

### **POLITICAL BALANCE RULES FOR THE CABINET**

The rules relating to political balance do not apply to meetings of the Cabinet.

## **PROCEDURE RULE 117**

### **PETITIONS, DEPUTATIONS AND QUESTIONS TO THE CABINET**

There is no provision for the public to submit petitions, depositions and questions to meetings of the Cabinet. Members of the public can submit petitions, depositions and questions to meetings of the Council and its Committees.

## **PROCEDURE RULE 118**

### **QUESTIONS AND NOTICE OF MOTION FROM MEMBERS**

There is no provision for Members to ask formal questions or submit motions at meetings of the Cabinet. Members of the Cabinet can be summoned to meetings of Scrutiny Committees to answer questions and can be asked questions at Council meetings.

## **PROCEDURE RULE 119**

### **PERSON PRESIDING**

- 1) If the Leader of the Council is present, they will preside over meetings of the Cabinet.
- 2) In the absence of the Leader, the Deputy Leader shall preside over the meeting.
- 3) If the Leader and Deputy Leader are absent from a meeting, the Chief Executive will invite Members of the Cabinet to nominate one of their number to take the chair. If discussion arises on that Motion the Chief Executive will exercise the powers of the person presiding until a Member is elected.
- 4) Any power of the Chairman in relation to the conduct of a meeting may be exercised by the person presiding.

## **PROCEDURE RULE 120**

### **RESPONSIBILITY OF THE PERSON PRESIDING**

- 1) To preside over the meeting.
- 2) To protect the meeting from outside interference.
- 3) To ensure that everything to be discussed is lawful.
- 4) To ensure that reasonable efforts are taken to explain issues being discussed so that Members are clear on what they are being asked to vote.
- 5) To ensure that as far as possible information is complete.
- 6) To permit every point of view to have a fair hearing.
- 7) To ensure the opinions expressed are relevant to the matter in hand.
- 8) To ensure business is transacted with reasonable speed.
- 9) To ensure as far as possible that proceedings are friendly and free from personal vilification.
- 10) To co-operate with officers and Members.
- 11) To monitor if the meeting has a quorum at all times and to take appropriate action under Procedure Rule 110.
- 12) To ensure that the order of the agenda for the meetings is followed.
- 13) To move the record of previous meetings.
- 14) To put any proposition moved and seconded by Members to a vote.
- 15) To exercise a second or casting vote in the event of equal voting upon a proposition.
- 16) To ensure that the Council's Rules of Debate relating to Cabinet meetings are followed.
- 17) To make rulings on the application of Procedure Rules.
- 18) To make rulings on points of order, points of personal explanation and points of information.
- 19) To move that a Member named be not heard further and put it to the vote without a seconder or a discussion.
- 20) To move that a Member named shall leave the meeting and to put it to the vote without a seconder or a discussion.
- 21) To adjourn meetings in the event of disorderly conduct by members.
- 22) To warn members of the public from interrupting proceedings and if necessary order that the public area is cleared and/or the meeting is adjourned.
- 23) To determine if items of Any Other Urgent Business should be included on the agenda.
- 24) To make statements to the press on the outcome of meetings.
- 25) To summon Special Meetings.
- 26) To postpone or cancel meetings and to approve holding Special Meetings at places other than Catmose or Oakham Castle.

27) To be consulted on taking urgent action between meetings.

## **PROCEDURE RULE 121**

### **RESPONSIBILITY OF CABINET MEMBERS**

- 1) To lead the community planning process.
- 2) To develop and implement corporate policy, plans and strategies.
- 3) To prepare the Annual Budget.
- 4) To take in-year decisions on resources and priorities to deliver the strategies and budgets within the framework approved by Full Council.
- 5) Exercise all powers collectively or by delegation to Officers except those reserved to Full Council and the Quasi-Judicial Committees.
- 6) To act as portfolio holders within the Cabinet for any functions considered necessary by the Leader.

## **PROCEDURE RULE 122**

### **RESPONSIBILITY OF CABINET PORTFOLIO HOLDERS**

- 1) To lead in the preparation, review, development and implementation of strategies and plans.
- 2) To lead the achievement of best value in the delivery of services and the Council's objectives.
- 3) To develop and maintain effective consultation with non-executive councillors., other portfolio holders, the Community and Stakeholders and Partners
- 4) To assist in the community planning process.
- 5) To be the spokesperson for the relevant portfolio.
- 6) To take in-year decisions following consultation by an officer with delegated powers on financial matters within the framework approved by the Council.

## **PROCEDURE RULE 123**

### **BUSINESS TO BE DISCUSSED**

- 1) At each meeting of the Cabinet the following business will be conducted:
  - a) Apologies for absence from Members;
  - b) Announcements from the Chairman and/or Head of Paid Service;
  - c) Declarations of interest, if any;
  - d) Consideration of the record of the last meeting;
  - e) Matters referred to the Cabinet (whether by a Scrutiny Committee or by the Council) for reconsideration by the Cabinet;



- f) Consideration of reports from Scrutiny Committees;
- g) Matters set out in the agenda for the meeting. The agenda shall indicate which are key decisions and which are not; and
- h) Urgent items of business with the consent of the Leader provided Procedure Rule 104 to 107 above have been followed. The Leader will explain why the matter is urgent and the reasons given will be recorded in the Record of Decisions.

## **PROCEDURE RULE 124**

### **RULES OF DEBATE AT CABINET**

- 1) Only one member shall speak at a time. If two or more members indicate a wish to speak, the person presiding shall call one to speak and indicate the order in which the others shall be heard. This does not prevent a person raising a point of order, a point of information or giving a personal explanation.
- 2) Whenever the person presiding stands up or speaks during a debate, any Member then speaking shall fall silent, and the meeting shall be silent.
- 3) The person presiding shall subject to paragraph 4) call upon Members of the Cabinet Committee to speak before any other Member who may be present.
- 4) The person presiding may invite a Member who is not a Member of the Cabinet to speak if they feel that this would be conducive to the issue being considered.
- 5) A Member shall confine a speech to the matter under discussion unless it is to make a point of order, point of information or to offer a personal explanation.
- 6) A Member must refrain from malice to retain the protection of speaking on privileged occasions.
- 7) The person presiding will determine the length of time Members are allowed to speak on an item under consideration and will give every Member of the Cabinet or Cabinet Committee an opportunity to speak on the item if the Member so wishes.
- 8) The person presiding may allow a Member to speak on more than one occasion on an item.
- 9) The person presiding may ask a Member to refrain from speaking if the Member is merely repeating comments already put forward by himself or previous speakers.
- 10) The proposer of a Motion shall have the right to reply to the debate at the following times:
  - a) At the close of the debate on the Motion.
  - b) At the close of the debate on an amendment to the Motion.
  - c) Before a Motion to proceed to the next business is put to the vote.
  - d) Before a Motion to adjourn the debate or refer the item to a Committee is put to the vote.
  - e) After a closure Motion described in Procedure Rule 33 2) r) i) and ii) is carried.

- 11) The proposer of an amendment to a Motion shall not have the right of reply to either the debate on the amendment or to the debate on a substantive Motion formed by the carrying of the amendment.
- 12) When exercising the right of reply, a Member shall confine himself to replying to previous speakers where they have not already had this opportunity.
- 13) After a Member has exercised the right of reply a vote shall be taken immediately on the Motion or amendment under discussion.
- 14) The person presiding shall have the right to determine when an issue has had a fair hearing and can indicate at any time that they intend to bring the debate to a close.

## **PROCEDURE RULE 125**

### **POINTS OF ORDER, PERSONAL EXPLANATION and INFORMATION**

Procedure Rules 41, 42 and 43 shall apply with the word "Council" replaced by the word "Cabinet" and that a Member need not stand but can politely indicate a wish to speak to the person presiding.

## **PROCEDURE RULE 126**

### **APPOINTMENTS MADE BY THE CABINET**

- 1) Any candidate for any position to be filled by a Cabinet shall be openly proposed and seconded.
- 2) At the close of nominations the Chairman shall state the names of the candidates who have been proposed and seconded.
- 3) If the number of nominations does not exceed the number of vacancies or if the number of vacancies is not limited the Chairman shall without any debate put the appointment of the nominated candidates collectively as a substantive Motion upon which no amendments may be moved.
- 4) If there are more nominations than vacancies and no nominations are subsequently withdrawn, the Committee Administrator will provide a ballot paper, or other suitable method, to enable each Member of the Cabinet present to cast a vote. Alternatively the Chairman, with the unanimous consent of the meeting, may choose to make an appointment by means of a show of hands for each of the Members nominated.
- 5) The conduct of the ballot will be under the sole direction of the Chief Executive or the Committee Administrator and only those Members who are present, and are not disqualified from voting, when the ballot is taken shall be entitled to vote. The Committee Administrator will hand a ballot paper to each member present. Members wishing to vote will then be required to place the ballot paper in a box or other suitable receptacle provided by the Committee Administrator.
- 6) The period for voting shall not be more than five minutes at the end of which the Chief Executive or the Committee Administrator will count the votes and announce the result.

- 7) If there are more candidates than vacancies and there is no absolute majority in favour of one person, the candidate with the least number of votes is withdrawn and a further ballot will be conducted. Ballots will continue until one candidate is elected with an absolute majority. In the event of a tie the election will be decided by the drawing of lots under the supervision of the Chief Executive or Committee Administrator.

## **PROCEDURE RULE 127**

### **CONSULTATION ON CABINET MATTERS**

- 1) **Budget and Policy Framework Matters**
  - a) All reports to the Cabinet from any Member of the Cabinet or an officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant Scrutiny Committees, and the outcome of that consultation.
- 2) **All other Matters**
  - b) Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## **PROCEDURE RULE 128**

### **CONFLICTS OF INTEREST**

- 1) Where any Cabinet Member has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- 2) If the exercise of an executive function has been delegated to a Committee of the Cabinet, an individual Member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made.

## **PROCEDURE RULE 129**

### **RULES FOR DEALING WITH MOTIONS AT CABINET**

Procedure Rules 77 to 80 shall apply as printed except references to the words 'Committee or Sub-Committee' shall also be read as a reference to 'Cabinet' where this is implicit in the meaning of the individual rule.

## **PROCEDURE RULE 130**

### **STATEMENTS TO THE CABINET**

With the consent of the person presiding and the Cabinet Member making the statement, questions on the statement may be put and answered without discussion. The maximum time allowed for questions and answers to statements shall be five minutes.

### **PROCEDURE RULE 131**

#### **RESCINDING A DECISION MADE IN THE PREVIOUS SIX MONTHS**

- 1) No Motion or amendment shall be moved to rescind any resolution of the Cabinet, which was passed within the preceding six months or which is to the same effect as one which has been rejected within that period unless:
  - a) notice of such Motion has been given by as many Members as would constitute a quorum of the Cabinet.
  - b) only one such Notice of Motion shall be allowed to rescind a decision under this Rule.
- 2) This Rule shall not apply to any resolution of the Cabinet which has been referred to the Council under the Call-In procedure in Procedure Rule 149.

### **PROCEDURE RULE 132**

#### **CLOSE OF MEETING**

- 1) No meeting of the Cabinet shall continue after 12.30pm (for meetings commencing at 10am) unless a Motion to extend the time is approved.
- 2) A Member may move that the time for the meeting be extended by 15 minutes in order to deal with any specific or any outstanding matter on the agenda.
- 3) No more than two extensions of 15 minutes shall be allowed.

## **SECTION 4 – OVERVIEW AND SCRUTINY COMMITTEE PROCEDURE RULES (Procedure Rules 133 - 171)**

### **PROCEDURE RULE 133**

#### **THE OVERVIEW AND SCRUTINY COMMITTEE**

- 1) The Council will appoint the Overview and Scrutiny Committee as set out in Article 6 and will appoint to it as it considers appropriate from time to time.

### **PROCEDURE RULE 134**

#### **CHAIRMAN OF SCRUTINY COMMITTEES**

- 1) The Chairman of the Overview and Scrutiny Committees will be appointed at the Annual Meeting of Council to serve for the Municipal Year in which they are appointed.
- 2) The Chairman of the Overview and Scrutiny Committee may resign by giving notice in writing to the Monitoring Officer.
- 3) The Council may remove the Chairman of any Overview and Scrutiny Committee it establishes.

### **PROCEDURE RULE 135**

#### **TASK AND FINISH GROUPS, WORKING GROUPS AND SINGLE-ISSUE PANELS**

1. The Overview and Scrutiny Committee will have responsibility for establishing such task and finish groups (including working groups and single-issue panels) as it considers necessary to assist it in discharging its functions.
2. The terms of reference and working arrangements for each group or panel Group will be determined by the Committee. The requirements of the Local Government (Committees and Political Groups) Regulations 1990 will not apply to these bodies.
3. Task and finish groups should be reviewed annually and be time limited.
4. Working Groups can be established to develop expertise in a significant area of interest or concern.
5. Panels are more suited for evidence gathering activity
6. All non-executive Members, whether they are members of the Committee or not, may be appointed to a task and finish group.

### **PROCEDURE RULE 136**

#### **MEMBERSHIP OF SCRUTINY COMMITTEES - MEMBERS**

- 1) **Elected Members**
  - a) All councillors, except members of the Cabinet, may be appointed by the Council as members of the Overview and Scrutiny Committee.
- 2) **Co-opted Members**
  - a) The Overview and Scrutiny Committee or a Scrutiny Sub-Committee may recommend to Council the appointment of a number of people as non-voting co-optees to assist in a specific scrutiny task. They will be required to observe the Members Code of Conduct. The number of co-opted Members on a Scrutiny Committee shall not exceed the number of elected Members.
- 3) **Statutory Co-opted Members - Education Representatives**

- a) The Overview and Scrutiny Committee or a Sub-Committee when dealing with education matters shall include in its membership the following voting representatives:
  - i) 1 Church of England diocese representative;
  - ii) 1 Roman Catholic diocese representative ;
  - iii) 2 parent governor representatives (the law allows between 2 and 5); and
  - iv) 0 representatives of other faiths or denominations.
- b) An Overview and Scrutiny Committee/Sub-Committee in this paragraph is a Scrutiny Committee or Sub-Committee of a local education authority, where the Committee or Sub-Committee's functions relate wholly or in part to any education functions which are the responsibility of the Cabinet. If the Scrutiny Committee/sub-Committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

#### **4) Designated Members**

- a) Designated Members can be appointed by the Overview and Scrutiny Committees to provide advice and to brief Members and Officers on a specific activity which is a function of the Council and has been delegated to the Scrutiny Committees. Designated Members have no executive authority to act or to incur expenditure. Any executive action may only be taken in consultation with an Officer, where delegated authority already exists, or through a formal resolution of a Scrutiny Committee provided they have delegated authority to take the decision.

#### **5) Scrutiny of Decisions**

- a) Article 1.3 (f) states that no one will review or scrutinise a decision made by a body of which they were a member.

### **PROCEDURE RULE 137** **MEETINGS OF SCRUTINY COMMITTEES**

There shall be at least 6 ordinary meetings of the Overview and Scrutiny Committee in each year. Additional meetings may be called from time to time as and when appropriate. A Scrutiny Committee meeting may be called by the Chairman of the Committee, by any 3 members of the Committee or by the Monitoring Officer if he or she considers it necessary or appropriate.

### **PROCEDURE RULE 138** **RECORDING OF SCRUTINY MEETINGS**

Procedure Rule 5 shall apply

### **PROCEDURE RULE 139** **QUORUM**

The quorum for a Scrutiny Committee shall be 50% of the voting members of the Committee (at least five voting members of a nine-Member Committee).

## **PROCEDURE RULE 140** **SCHEME OF DELEGATION**

Scrutiny Committees do not have any executive authority to take decisions in the delivery of services and cannot have such authority delegated to them. Scrutiny Committees can make recommendations to the Cabinet and Council on any matter it considers.

## **PROCEDURE RULE 141** **WORK PROGRAMME**

1. The Overview and Scrutiny Committee will be responsible for setting its own work programme and shall take into account the wishes of councillors who are not members of the largest political group on the Council.
2. The Committee's work programme should be guided by the Council's agreed priorities as set out in the Rutland Corporate Strategy and the Future Rutland Vision.
3. The overall work programme should take account of:
  - Whether the proposed work furthers corporate priorities
  - The likelihood of something significant or valuable coming from the work
  - The importance of the issue for users and the public generally
  - Whether there is evidence of user dissatisfaction with the service
  - Issues raised through audit or inspections
  - Whether there is a high level of budgetary commitment to the service
  - Public interest covered in the local media
4. The Committee should adopt a project management approach to any in-depth review of existing Council policy:
  - Consider setting up a task and finish group, evidence gathering session, scrutiny panel or working group
  - Identify a Lead Member for the Review
  - Agree terms of reference and objectives for the work
  - Agree a project plan to include timescales, who will participate, how evidence will be collected, the key issues/question to be addressed.
  - Preparation of a final report with recommendations

## **PROCEDURE RULE 142** **AGENDA ITEMS FOR OVERVIEW AND SCRUTINY COMMITTEE**

- 1) Any Councillor shall be entitled to request that the Chairman add an item relevant to the functions of the Overview and a Scrutiny Committee to the Scrutiny Work Programme . The Councillor requesting it will be entitled to speak at the meeting where the item is considered.

- 2) Any 3 members of the Overview and Scrutiny Committee may give written notice to the Monitoring Officer that they wish an item to be included on the agenda. On receipt of such a request, the Monitoring Officer, in consultation with the Chairman, will ensure that it is included on the next available agenda.
- 3) The Overview and Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council and, if it considers it appropriate, the Cabinet to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Committee within two months of receiving it.

### **PROCEDURE RULE 143**

#### **ROLE OF THE OVERVIEW AND SCRUTINY COMMITTEE**

- 1) Development of the Council's Budget and Policy Framework.
- 2) In relation to the development of the Council's approach to other matters not forming part of its policy and Budget Framework, the Overview and Scrutiny Committee or sub-Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- 3) The Overview and Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

### **PROCEDURE RULE 144**

#### **REPORTS FROM THE OVERVIEW AND SCRUTINY COMMITTEES**

- 1) All formal reports from Sub-Committees; Task and Finish groups; Working groups or Single-Issue Panels will be reported to the Scrutiny Committee, before submission to the Cabinet or the Council, except where the agreement of the Chairman of the Scrutiny Committee has been given not to do so.
- 2) Once it has formed recommendations, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Monitoring Officer for consideration by the Cabinet (if the proposals are consistent with the existing Budgetary and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework) the request at the earliest opportunity, and make arrangements for the matter to be included on the agenda at the next available meeting of the Committee/Sub-Committee.



- 3) The Council or the Cabinet shall consider the reports of the Overview and Scrutiny Committee within 2 months unless the Forward Plan requires otherwise.

### **PROCEDURE RULE 145**

#### **CONSIDERATION OF OVERVIEW AND SCRUTINY COMMITTEE REPORTS BY CABINET**

- 1) Once an Overview and Scrutiny Committee report on any matter which is the responsibility of the Cabinet has been completed, it shall be included as an agenda item on a Cabinet meeting as soon as practicable. If for any reason the Cabinet does not consider the report within two months the Cabinet will give an explanation of the reasons to the Chairman of the Overview and Scrutiny Committee as soon as practicable.
- 2) The Overview and Scrutiny Committees will have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

### **PROCEDURE RULE 146**

#### **RIGHT OF INSPECTION OF DOCUMENTS**

- 1) In addition to their rights as councillors, members of the Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 5 of this Constitution.
- 2) Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

### **PROCEDURE RULE 147**

#### **MEMBERS AND OFFICERS GIVING ACCOUNT**

- 1) The Overview and Scrutiny Committee or Sub-Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require Leader and Cabinet members and/or any senior officer to attend before it to explain in relation to matters within their remit:
  - a) any particular decision or series of decisions;
  - b) the extent to which the actions taken implement Council policy; and/or
  - c) their performance.

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

- 2) The term senior officer in this Rule applies to the Chief Executive, a Chief Officer, a Deputy Chief Officer or a Second Tier Officer responsible for managing or delivering a Council service.
- 3) Where any member or officer is required to attend the Overview and a Scrutiny Committee under this provision, the Chairman of that Committee will inform the Monitoring Officer. The Monitoring Officer shall inform the member or officer in writing giving at least 7 working days notice of the meeting at which he or she is required to attend. The notice will state the nature of the item on which he or she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 4) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Committee shall in consultation with the member or officer arrange an alternative date for attendance.
- 5) The Overview and Scrutiny Committee can request an officer below second tier level to attend before it to explain in relation to matters within their remit. Where there are concerns about the appropriateness of the officer who should attend, the relevant chief officer will discuss this with the Scrutiny Chairman with a view to achieving consensus.
- 6) Members of the Overview and Scrutiny Committees must at all times have regard to any approved codes of conduct and protocols relating to the treatment of officers when conducting a scrutiny process.

## **PROCEDURE RULE 148**

### **ATTENDANCE BY OTHERS**

- 1) The Overview and Scrutiny Committee may invite people other than those people referred to in Procedure Rule 147 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

## **PROCEDURE RULE 149**

### **CALL-IN**

- 1) Call-In should only be used in exceptional circumstances. These are where members of the Overview and Scrutiny Committee can provide sufficient evidence to suggest that the Cabinet did not take the decision in accordance with the principles set out in Article 12 (Decision Making).
- 2) When a decision is made by the Cabinet, or a Committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally

within 2 days of being made. The Chairman of the Overview Scrutiny Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

- 3) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless the Overview and a Scrutiny Committee objects to it and calls it in.
- 4) During that period, the Monitoring Officer shall Call-In a decision for scrutiny by the Committee if so requested by the Chairman or any three members of the Committee, and shall then notify the decision-taker of the Call-In. He or she shall call a meeting of the Committee on such date as he or she may determine, where possible after consultation with the Chairman of the Committee, and in any case within 5 days of the decision to Call-In.
- 5) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further 5 working days, amending the decision or not, before adopting a final decision.
- 6) If following an objection to the decision, the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny Committee or the expiry of that further 5 working day period, whichever is the earlier.
- 7) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of a Cabinet decision unless the Monitoring Officer decides that it is contrary to the Policy Framework, or the Chief Finance Officer decides it is contrary to or not wholly consistent with the Budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a Committee of it, a meeting will be convened to reconsider within 15 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 15 working days of the Council request.
- 8) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

## **PROCEDURE RULE 150**

### **EXCEPTIONS TO CALL-IN**

- 1) In order to ensure that Call-In is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are listed below:
  - a) only decisions involving expenditure or reductions in service over a value of £25,000 may be Called-In;
  - b) three members of the Overview and Scrutiny Committee or the Chairman are needed for a decision to be Called-In;
  - c) each decision may only be subjected to one Call-In procedure. Once a decision has been reconsidered no further Call-In of the decision will be allowed on the reconsideration of a decision.
  - d) Call-In procedures shall not apply to decisions taken on the grounds of urgency in accordance with Procedure Rule 208 below.

### **PROCEDURE RULE 151** **CALL-IN AND URGENCY**

1. The Call-In procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call in process would, for example, seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to Call-In. The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Head of Paid Service or their nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
2. The operation of the provisions relating to Call-In and urgency shall be monitored annually by the Monitoring Officer and a report submitted to Council with proposals for review if necessary.

### **PROCEDURE RULE 152** **THE PARTY WHIP**

Political Groups should not pressure their members over how they speak or vote at the Overview and Scrutiny Committees.

### **PROCEDURE RULE 153** **AGENDA FOR OVERVIEW AND SCRUTINY COMMITTEE MEETINGS**

- 1) The Overview and Scrutiny Committees and its Sub-Committees shall consider the following business:
  - a) To appoint a Member to preside if the Chairman is not present

- b) To confirm the minutes of the last meeting;
  - c) To receive declarations of interest;
  - d) To receive petitions, deputations and questions from members of the public;
  - e) To consider any matter referred to the Committee for a decision in relation to Call-In of a decision;
  - f) To receive responses of the Cabinet to reports of the Overview and Scrutiny Committee;
  - g) To receive the business otherwise set out on the agenda for the meeting;
  - h) To review the work programme
- 2) Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
- a) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - b) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

Following any investigation or review, the Committee/sub-Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

**PROCEDURE RULE 154**  
**TERMS OF REFERENCE OF THE OVERVIEW AND SCRUTINY COMMITTEE**

The general terms of reference of the Overview and Scrutiny Committee are set out below:

- a) To perform all overview and scrutiny functions on behalf of the Council.
- b) To appoint such informal task and finish groups as it considers appropriate to fulfil those overview and scrutiny functions.
- c) To approve the overview and scrutiny work programme to ensure that the Committee's time is effectively and efficiently utilised.
- d) To undertake investigations into such matters relating to the Council's functions and powers as:

- i. May be referred by the Council, Committees, the Cabinet, or the Leader; or the Committee may consider appropriate  
Or
- ii. Have been referred to the Committee pursuant to the “call-in” procedure set out in these Scrutiny Procedure Rules. (These can be decisions taken by the Cabinet, a Cabinet Member, key decisions taken by an officer or under joint arrangements).
- e) To monitor and review the performance of the Council and services against relevant performance indicators and adopted plans.
- f) To review and/or scrutinise decisions proposed to be made (pre-decision scrutiny) or actions taken in connection with the discharge of any of the Council’s functions.
- g) To review existing policy and strategy with a view to securing continuous improvement in the way in which the Council’s functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- h) To make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions.
- i) To review and/or scrutinise any matter affecting the area or its inhabitants.
- j) To discuss initiatives put forward for consideration by individual members of the Committee and any relevant ‘call-for-action’ in accordance with these Scrutiny Procedure Rules; and
- k) To consider petitions referred to the Overview and Scrutiny Committee in accordance with provisions set out in the Petition Scheme set out in Part 4 of this Constitution.

**PROCEDURE RULE 155**  
**CHAIRMAN PRESIDING AT MEETINGS OF SCRUTINY COMMITTEES**

**1) Chairman**

- a) The Chairman of the Overview and Scrutiny Committees will be appointed at the Annual Meeting of Council to serve for the Municipal Year in which they are appointed.
- b) The Chairman of the Overview and a Scrutiny Committee may resign by giving notice in writing to the Monitoring Officer.
- c) The Council may remove the Chairman of the Overview and Scrutiny Committee it establishes.
- d) Any power of the Chairman in relation to the conduct of a meeting may be exercised by the person presiding.

**2) Chairmen of Task and Finish Groups**

The Chairman of each Task and Finish Group will be appointed by the relevant Scrutiny Committee.

**3) Absence of the Chairman**

- a) If the Chairman and Vice-Chairman are absent from a meeting, the Monitoring Officer or their representative will invite Members to nominate a Member of the Committee to take the chair.
- b) If the Chairman arrives at a meeting when another Member is presiding, the Chairman shall not preside until the item under consideration when he or she arrived has been determined.

### **PROCEDURE RULE 156** **RESPONSIBILITY OF A CHAIRMAN OR PERSON PRESIDING**

- 1) Procedure Rule 23 (1)-(27) will apply.
- 2) In addition, the Chairman will be consulted on taking urgent action between meetings.

### **PROCEDURE RULE 157** **ATTENDANCE AT MEETINGS BY MEMBERS WHO ARE NOT MEMBERS OF THAT SCRUTINY COMMITTEE**

- 1) Apart from the provisions of Procedure Rule 147, a Member may attend any meeting of the Overview and a Scrutiny Committee of which he or she is not a Member, and he or she may be invited to speak at the Chairman's discretion. A Member who is attending in this capacity cannot vote.
- 2) The ability of a Member to attend or speak is subject to any restrictions placed upon him or her arising from the Council's Code of Conduct.
- 3) The right to attend does not apply to a meeting when a report is considered which contains exempt information in accordance with the Access to Information Rules and the public and press have been excluded unless the Monitoring Officer or their representative and the Scrutiny Committee is satisfied that the Member needs to be present and the Scrutiny Committee resolves to allow the Member to stay.
- 4) A Member who attends a meeting of which he or she is not a Member must sit in a designated area so that it is clear for any member of the public that the Member is not a Member of the Scrutiny Committee.

### **PROCEDURE RULE 158** **RECORD OF MEETINGS**

- 1) Records of every Overview and Scrutiny Committee shall be submitted to and signed at the following Ordinary Meeting. Minutes of an Ordinary Meeting shall not be put to a Special Meeting for confirmation.

### **PROCEDURE RULE 159** **SUBMISSION OF PETITIONS DEPUTATIONS AND QUESTIONS FROM MEMBERS OF THE PUBLIC**

Procedure Rule 25 (1) – (5) shall apply for Petitions, Deputations and Written Notice of Questions to the Overview and Scrutiny Committee. With the word ‘Council’ replaced with ‘Scrutiny Committee’.

**The following rules shall apply to Questions submitted at short Notice to the Overview and Scrutiny Committees:**

- a) A member of the public may ask a question on any matter forming part of the agenda for the meeting provided that the question is restricted to a single topic and that a written copy of the question is given to the Committee Administrator 15 minutes before the meeting starts.
- b) The questioner should conform with the requirements set out in paragraph 1.2 otherwise the person presiding can rule that the question will not be answered and move onto the next question.
- c) The time allowed for any questions submitted under this procedure shall be a maximum of 15 minutes provided that it falls within the total time of 30 minutes allowed for petitions, deputations and questions where notice has been given under paragraph 4.3.
- d) A maximum of one minute shall be allowed to ask each question and no supplementary question will be allowed. The maximum time for answering a question shall be two minutes.
- e) Questions shall be asked in the order in which the Committee Administrator receives them, except that the person presiding may take any questions of a similar nature together.
- f) When called to ask a question by the person presiding, the questioner will state their name and address for the record before they read their question.
- g) The Chief Executive or Committee Administrator may offer advice to reword a question if this is acceptable to the questioner.
- h) All questions shall be addressed to the person presiding at the meeting who may authorise another Member or Officer to provide an answer. If it is not possible or reasonable to answer the question at the meeting a written response will be supplied later. Any questions answered in writing will be reported for information to the next Ordinary Meeting.
- i) Every question shall be put and answered without discussion. No discussion shall be permitted, nor a resolution moved with reference to any question or reply to a question.
- j) The name of the person who asked the question, a summary of the question and the response shall be recorded in the Record of the meeting.



## **PROCEDURE RULE 160**

### **TIME ALLOWED FOR PETITIONS DEPUTATIONS AND QUESTIONS FROM MEMBERS OF THE PUBLIC**

- 1) The maximum time allowed for presenting petitions, deputations and questions at a meeting shall be 30 minutes.
- 2) Petitions, deputations and questions from members of the public shall be considered in the order in which they have been received. A member of the public may submit one petition, deputation or ask one question (not including a supplementary question) at a meeting. Questions submitted without notice shall be asked in the order in which the questioner indicated their intention to ask a question to the Committee Administrator before the meeting. Questions without notice shall be asked when all other petitions, deputations and questions with notice have been considered.
- 3) Petitions, Deputations or Questions will be subject to the same rules as other Committees of the Council as set out in Procedure Rule 93

## **PROCEDURE RULE 161**

### **QUESTIONS WITH NOTICE FROM MEMBERS**

- 1) Any Member may ask a question with notice at a meeting provided the Democratic Services Manager receives a written copy of the question by no later than no later than midday on the third working day before the meeting at which that person wishes to put the question e.g. Wednesday 12:00 for a meeting the following Monday.
- 2) The person presiding may take questions without notice provided they are related to an item on the agenda.
- 3) Procedure Rule 75 1) and 2) shall apply to questions asked by Members.
- 4) Questions may be asked of the Chairman of the Overview and Scrutiny Committee, a Designated Member or a representative on an outside body appointed by the Overview and Scrutiny Committee.
- 5) A list of the questions of which notice has been given shall be circulated to Members of the Council at, or before, the meeting at which they are to be asked. Questions will be asked in the order in which they have been received.
- 6) Each question shall be put and answered without discussion, but the Member to whom the question has been put may decline to answer it. The Member asking a question may ask one relevant supplementary question which shall be put and answered without discussion.
- 7) An answer to a question may be given by the person to whom it is addressed or by a Member or Officer on their behalf, and may take the form of
  - a) an oral answer.

- b) a reference to information contained in some publication.
  - c) a written answer circulated to Members of the Scrutiny Committee before or with the agenda for the next meeting at the latest.
- 8) Every question shall be relevant to some matter in relation to which the Scrutiny Committee has powers or a duty and which affects any part of Rutland or its inhabitants.
- 9) No discussion will be permitted, nor any resolution moved with reference to any question or reply to a question.
- 10) The Chairman may authorise another Member or an Officer to answer any question.
- 11) The name of the Member asking the question, the text of the question and a summary of the response shall be detailed in the Record of the meeting.

**PROCEDURE RULE 162**  
**TIME ALLOWED FOR QUESTIONS FROM MEMBERS**

Procedure Rule 28 shall apply.

**PROCEDURE RULE 163**  
**NOTICES OF MOTION FOR SCRUTINY COMMITTEES**

- 1) Only a Motion which relates to a matter where the Scrutiny Committee has powers or a duty and which affects any part of Rutland, or its inhabitants will be accepted and will be subject to Procedure Rule 77.
- 2) A Motion must relate to a matter where the Scrutiny Committee has powers or a duty and which affects any part of Rutland or its inhabitants.

**PROCEDURE RULE 164**  
**MOTIONS GENERALLY**

Procedure Rule 78 shall apply.

**PROCEDURE RULE 165**  
**MOTIONS AND AMENDMENTS WHICH MAY BE MOVED WITHOUT NOTICE**

Procedure Rule 79 shall apply.

**PROCEDURE RULE 166**  
**AMENDMENTS TO MOTIONS**

Procedure Rule 80 shall apply.

**PROCEDURE RULE 167**  
**RULES OF DEBATE IN THE OVERVIEW AND SCRUTINY**  
**COMMITTEES**

- 1) Only one member shall speak at a time. If two or more members indicate a wish to speak, the person presiding shall call one to speak and indicate the order in which the others shall be heard.
- 2) Whenever the person presiding stands up or speaks during a debate, any Member then speaking shall fall silent, and the meeting shall be silent.
- 3) The person presiding shall call upon Members of the Scrutiny Committee to speak before any other Member who may be present.
- 4) A Member shall confine a speech to the matter under discussion unless it is to make a point of order, point of information or to offer a personal explanation.
- 5) A Member must refrain from malice to retain the protection of speaking on privileged occasions.
- 6) The person presiding will determine the length of time Members are allowed to speak on an item under consideration and will give every Member of the Overview and Scrutiny Committee an opportunity to speak on the item if the Member so wishes.
- 7) The person presiding may allow a Member to speak on more than one occasion on an item.
- 8) The person presiding may ask a Member to refrain from speaking if the Member is merely repeating comments already put forward by previous speakers.
- 9) The proposer of a Motion shall have the right to reply to the debate at the following times:
  - a) At the close of the debate on the Motion.
  - b) At the close of the debate on an amendment to the Motion.
  - c) Before a Motion to proceed to the next business is put to the vote.
  - d) Before a Motion to adjourn the debate or refer the item to a Committee is put to the vote.
  - e) After a closure Motion described in Procedure Rule 79 1) r) and 1) s) is carried.
- 10) The proposer of an amendment to a Motion shall not have the right of reply to either the debate on the amendment or to the debate on a substantive Motion formed by the carrying of the amendment.
- 11) When exercising the right of reply, a Member shall confine himself to replying to previous speakers where they have not already had this opportunity.

- 12) After a Member has exercised the right of reply to a vote shall be taken immediately on the Motion or amendment under discussion.
- 13) The person presiding shall have the right to determine when an issue has had a fair hearing and can indicate at any time that they intend to bring the debate to a close.

### **PROCEDURE RULE 168**

#### **DISORDERLY CONDUCT BY MEMBERS**

Procedure Rule 46 shall apply.

### **PROCEDURE RULE 169**

#### **DISORDERLY CONDUCT BY THE PUBLIC**

Procedure Rule 47 shall apply.

### **PROCEDURE RULE 170**

#### **CLOSE OF MEETINGS**

Procedure Rule 54 shall apply with the word "Council" replaced by the words "Overview and Scrutiny Committee".

### **PROCEDURE RULE 171**

#### **ANNUAL REPORT**

The Overview and Scrutiny Committee shall report annually to the full Council on the outcomes of its work for the year.

## **SECTION 5 - ACCESS TO INFORMATION PROCEDURE RULES**

(Procedure Rules 172 - 192)

### **PROCEDURE RULE 172**

#### **SCOPE OF ACCESS TO INFORMATION RULES**

These rules apply to all meetings of the Council, its Committees, Scrutiny Committees, the Conduct Committee and regulatory Committees and public meetings of the Cabinet collectively called meetings.

### **PROCEDURE RULE 173**

#### **ADDITIONAL RIGHTS OF INFORMATION**

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

## **PROCEDURE RULE 174**

### **RIGHTS TO ATTEND AND RECORD MEETINGS**

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

While a meeting is open to the public any member of the public attending may report on that meeting by:

- (a) filming, photographing or making an audio recording of proceedings at a meeting.
- (b) using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or
- (c) reporting or providing commentary, in writing, on proceedings at a meeting so that the report or commentary is available as the meeting takes place or later to persons not present (oral reporting or commentary is not permitted during a meeting but may be provided outside or after the meeting).

## **PROCEDURE RULE 175**

### **NOTICE OF MEETINGS**

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at Catmose, Oakham, which is the designated office.

## **PROCEDURE RULE 176**

### **ACCESS TO AGENDA AND REPORTS BEFORE A MEETING**

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection for the time the item was added to the agenda.

## **PROCEDURE RULE 177**

### **SUPPLY OF COPIES**

- 1) The Council will supply a reasonable number of copies of:
  - a) any agenda and reports which are open to public inspection.
  - b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and

- c) if the Chief Executive thinks fit, copies of any other documents supplied to councillors in connection with an item to any person on payment of a charge for postage and any other costs.

## **PROCEDURE RULE 178**

### **ACCESS TO MINUTES ETC AFTER A MEETING**

- 1) The Council will make available copies for inspection of the following for six years after a meeting:
  - a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information
  - b) a summary of any proceedings do not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
  - c) the agenda for the meeting; and
  - d) reports relating to items when the meeting was open to the public.

## **PROCEDURE RULE 179**

### **BACKGROUND PAPERS**

#### **1) List of background papers**

The Chief Executive will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

- a) disclose any facts or matters on which the report or an important part of the report is based; and
- b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Procedure Rule 239) and in respect of Cabinet reports, the advice of a political advisor.

#### **2) Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## **PROCEDURE RULE 180**

### **SUMMARY OF PUBLIC RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and made available to the public at Catmose, Oakham.

As the Constitution must be available to the public then these Rules constitute the written summary.

## **PROCEDURE RULE 181**

### **EXCLUSION OF ACCESS BY THE PUBLIC AND PRESS**

#### **1) Confidential Information – requirement to exclude Public**

The public and press must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed. (See also paragraph 5 for elected Members)

#### **2) Exempt Information – discretion to exclude Public**

- a) The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. (See also paragraph 5 for elected Members).
- b) Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

#### **3) Meaning of confidential Information**

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

#### **4) Meaning of Exempt Information**

Exempt Information means information falling within the following categories (subject to the qualifications) and to the following conditions: -

- a) Information falling within any of the paragraphs below is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.
- b) Information which falls within any of paragraphs 1 to 7 below is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **SCHEDULE 12A OF LOCAL GOVERNMENT ACT 1972 (As amended)**

Description of exempt information	Qualification	Notes
1. Information relating to any individual	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table	Names, addresses or telephone numbers can identify individuals.  Also consider the Council's Data Protection Act responsibilities.
2. Information which is likely to reveal the identity of an individual	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table	Names, addresses or telephone numbers can identify individuals.  Also consider the Council's Data Protection Act responsibilities.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table  Information falling within paragraph 3 is not exempt	The authority is a reference to the principal council or, as the case may be, the committee or subcommittee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined [etc]  Financial or business affairs includes



Description of exempt information	Qualification	Notes
	<p>information by virtue of that paragraph if it is required to be registered under –</p> <ul style="list-style-type: none"> <li>(a) the Companies Act 1985</li> <li>(b) the Friendly Societies Act 1974</li> <li>(c) the Friendly Societies Act 1992</li> <li>(d) the Industrial and Provident Societies Acts 1965 to 1978</li> <li>(e) the Building Societies Act 1986</li> <li>(f) the Charities Act 1993</li> </ul>	<p>contemplated, as well as past or current activities</p> <p>Registered in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act)</p>
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority</p>	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table</p>	<p>The authority is a reference to the principal council or, as the case may be, the committee or subcommittee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined [etc]</p> <p>Employee means a person employed under a contract of service</p>

Description of exempt information	Qualification	Notes
		<p>Labour relations matter means:-</p> <p>(a) any of the matters specified in paragraphs (a) to (g) of section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or</p> <p>(b) any dispute about a matter falling within paragraph (a) above</p> <p>(applies to trade disputes relating to office holders as well as employees)</p> <p>Office holder in relation to the authority, means the holder of any paid office appointments which are or may be made or confirmed by the authority or by any joint board on which the</p>

Description of exempt information	Qualification	Notes
		authority is represented or by any person who holds any such office or is an employee of the authority
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table	Privilege lies with the “client” which broadly is the council. Seek the view of the relevant Chief Officer whether they wish to waive privilege.
6. Information which reveals that the authority proposes –  (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or  (b) to make an order or direction under any enactment	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table	The authority is a reference to the principal council or, as the case may be, the committee or subcommittee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined [etc]

Description of exempt information	Qualification	Notes
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table	

- 5) Elected Members who are not appointed Members of the meeting at which exempt or confidential information is to be discussed may remain in the meeting during consideration of the item provided the meeting resolves to allow them to remain.
- 6) All Elected Members of the Council will receive all papers relating to exempt items to enable them to discharge their duties as a Member of the Council.

**PROCEDURE RULE 182**  
**EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If Chief Executive thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Procedure Rule 181, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

**PROCEDURE RULE 183**  
**APPLICATION OF THE RULES TO THE CABINET**

- 1) Procedure Rules 184 – 191 apply to the Cabinet and its Committees. If the Cabinet or its Committees meet to take a key decision then it must also comply with Procedure Rules 172 – 182 unless Procedure rule 186 (general exception) or Procedure rule 187 (special urgency) apply. A key decision is as defined in Article 13) 3) of this Constitution.
- 2) If the Cabinet or its Committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the Forward Plan by which it is to be decided, then it must also

comply with Procedure Rules 172 – 182 unless Procedure Rule 186 (general exception) or Procedure Rule 187 (special urgency) apply. A key decision is as defined in Article 13) 3) of this Constitution. This requirement does not include meetings whose sole purpose is for officers to brief members.

## **PROCEDURE RULE 184** **PROCEDURE BEFORE TAKING KEY DECISIONS**

- 1) Subject to Procedure Rule 186 (General Exception) and Procedure Rule 187 (Special Urgency), a key decision may not be taken unless:
  - a) At least 28 clear days' notice has been published in connection with the matter in question in accordance with Procedure Rule 243; and
  - b) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Procedure Rule 136 (Notice of Meetings).

## **PROCEDURE RULE 185** **PUBLICITY IN CONNECTION WITH KEY DECISIONS**

- 1) The document published under Procedure Rule 184 1) a) shall state:
  - a) the matter in respect of which a decision is to be made.
  - b) where the decision taker is an individual, their name and title, if any and where the decision taker is a body, its name and details of membership.
  - c) the date on which, or the period within which, the decision will be taken.
  - d) a list of the documents submitted to the decision taker for consideration in relation to the matter.
  - e) The address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available.
  - f) That other documents relevant to the matter may be submitted to the decision taker; and
  - g) The procedure for requesting details of those documents (if any) as they become available.

## **PROCEDURE RULE 186** **GENERAL EXCEPTION FOR KEY DECISIONS**

- 1) Where the publication of the intention to make a key decision under Procedure Rule 185 is impracticable, then subject to Procedure Rule 187 (Special Urgency), the decision may only be made:

- a) Where the Chief Executive has informed the Chairman of the relevant Scrutiny Committee, or if there is no such person, each member of that Committee in writing, by notice, of the matter about which the decision is to be made.
  - b) the Chief Executive has made copies of that notice available to the public at the offices of the Council and on the Council's website; and
  - c) at least 5 clear days have elapsed since the proper officer complied with a) and b).
- 2) As soon as reasonably practicable the Chief Executive must publish a notice setting out the reasons why compliance with Procedure Rule 185 is impracticable.

### **PROCEDURE RULE 187**

#### **SPECIAL URGENCY FOR KEY DECISIONS**

- 1) If by virtue of the date by which a decision must be taken Procedure Rule 186 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chairman of the body making the decision, obtains the agreement of the chairman of the relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no chairman of a relevant Scrutiny Committee, or if the chairman of each relevant Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in their absence the Vice Chairman will suffice.
- 2) As soon as reasonably practicable after the decision taker has obtained agreement under paragraph a), they must publish a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred.

### **PROCEDURE RULE 188**

#### **REPORT TO COUNCIL**

##### **1) When a Scrutiny Committee can require a Report**

If a Scrutiny Committee thinks that a decision has been taken which was not:

- a) treated as being a key decision when the Committee is of the opinion that it should have been so treated the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rest with the Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by the Chairman (or any 5 members).
- 2) Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Scrutiny Committee.
- 3) **Cabinet's Report to Council**

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

#### 4) **Quarterly Reports on special urgency Decisions**

In any event the Leader will submit quarterly (or other frequency determined by the Council) reports to the Council on the Cabinet decisions taken in the circumstances set out in Procedure Rule 187 (special urgency) in the preceding period. The report will include the particulars of each decision so taken and a summary of the matters in respect of which those decisions were taken.

### **PROCEDURE RULE 189** **RECORD OF DECISIONS**

After any meeting of the Cabinet or any of its Committees, whether held in public or private, the Monitoring Officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting within any time limits prescribed by law. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

### **PROCEDURE RULE 190** **CABINET RELATING TO MATTERS WHICH ARE NOT KEY** **DECISIONS AND PROCEDURES PRIOR TO PRIVATE MEETINGS**

- 1) The Cabinet will consider all matters which are not key decisions in public unless there is a need to exclude the public and press in accordance with Access to Information Rules.
- 2) If the Cabinet intends to hold a meeting in private, then at least 28 clear days before the meeting, it must publish a notice of that intention at the Council offices and on its website, including a statement of the reasons for the meeting to be held in private.
- 3) At least 5 clear days before a private meeting, a further notice must be published including a statement of the reasons, details of any representations received about why the meeting should be open to the public, and a statement of the response to such representations.
- 4) Where the date by which a meeting must be held makes compliance with the above impracticable, the meeting may only be held in private where the chairman of the relevant Scrutiny Committee agrees that the meeting is urgent and cannot reasonably be deferred. In the absence of a chairman, the Chairman of the Council or, in their absence, the Vice-Chairman, may agree.

- 5) As soon as reasonably practicable after agreement has been obtained under paragraph 4), a notice must be published setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

## **PROCEDURE RULE 191**

### **ATTENDANCE AT BRIEFING MEETINGS OF THE CABINET**

- 1) Non-Cabinet Members are not entitled to attend briefing meetings of the Cabinet or its Committees unless invited to do so by the Members of the Cabinet or its Committee.
- 2) A briefing meeting of the Cabinet or its Committees is one where officers or others are requested to brief Members on an issue, but no decision will be made and no formal agenda is issued in accordance with the Access to Information Rules.

## **PROCEDURE RULE 192**

### **BRIEFING MEETINGS FOR MEMBERS OF THE OVERVIEW AND SCRUTINY COMMITTEE**

Members of the Overview and Scrutiny Committees may request briefing meetings from officers of the Council and may invite members of the Cabinet to attend.

## **SECTION 6 - BUDGET AND POLICY**

(Procedure Rules 193 - 199)

## **PROCEDURE 193**

### **FRAMEWORK FOR EXECUTIVE DECISIONS**

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 4. Once a Budget or a Policy Framework is in place, it will be the responsibility of the Cabinet to implement it. See also references to the Budget and Policy Frameworks in the Definition of Terms used in the Constitution.

## **PROCEDURE RULE 194**

### **PROCESS FOR DEVELOPING THE FRAMEWORK**

- 1) The process by which the Budget and Policy Framework shall be developed is:
  - a) The Cabinet will publicise by including in the Forward Plan which will be published on the Council's website and at the Council's offices. A timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework, and its arrangements for consultation after publication of those initial proposals. The Chairmen of Scrutiny Committees will also be notified. The consultation period shall in each instance be not less than 3 weeks.



- b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If a relevant Scrutiny Committee wishes to respond to the Cabinet in that consultation process, then it may do so. As the Scrutiny Committees have responsibility for fixing their own work programme, it is open to the Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from a Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.
- c) Once the Cabinet has approved the firm proposals, the proper officer will refer them at the earliest opportunity to the Council for decision.
- d) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or in principle, substitute its own proposals in their place.
- e) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- f) The decision will be publicised in accordance with Article 4 and a copy shall be given to the Cabinet Members.
- g) An in-principle decision will automatically become effective 5 working days from the date of the Council's decision, unless 2 Cabinet Members inform the Chief Executive in writing within 5 days that they object to the decision becoming effective and provide reasons why.
- h) In that case, the Chief Executive will call a Council meeting within a further 2 days. The Council will be required to re-consider its decision and Cabinet Member's written submission within 15 days. The Council may
  - i) approve the Cabinet's recommendation by a simple majority of votes cast at the meeting; or
  - ii) approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.
- i) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately.
- j) In approving the Budget and Policy Framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the Policy Framework which may be undertaken by the Cabinet, in accordance with Procedure Rules 197 and 198 (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

## **PROCEDURE RULE 195**

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

- 1) Subject to the provisions of Procedure Rules 197 (virement) the Cabinet, Committees of the Cabinet, and any officers, area Committees or joint arrangements discharging Cabinet functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by full Council, then that decision may only be taken by the Council, subject to Procedure Rule 196 below.
- 2) If the Cabinet, Committees of the Cabinet, and any officers, area Committees or joint arrangements discharging Cabinet functions want to make such a decision, they shall take advice from the Monitoring Officer as to whether the decision they want to make would be contrary to the Policy Framework, or take advice from the Chief Finance Officer as to whether the decision they want to make would be contrary to or not wholly in accordance with the Budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Procedure Rule 196 (urgent decisions outside the Budget and Policy Framework) shall apply.

## **PROCEDURE RULE 196**

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

- 1) The Cabinet, a Committee of the Cabinet, officers or joint arrangements discharging executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
  - a) if it is not practical to convene a quorate meeting of the full Council; and
  - b) if the chair of a relevant Scrutiny Committee agrees that the decision is a matter of urgency.
- 2) The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the relevant Scrutiny Committees' consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of a relevant Scrutiny Committee the consent of the Chairman of the Council, and in the absence of both the Vice-Chairman, the approval of the Chief Executive will be sufficient.
- 3) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **PROCEDURE RULE 197**

### **VIREMENTS AND IN-YEAR BUDGET CHANGES**

- 1) The Council shall agree a Council budget (this is defined as the total of all Directorate budgets) which will set out budget ceilings within each Directorate for specific functions. Budget ceilings will be determined during the annual budget process. They will take into account any statutory guidance or ring-fenced budgets, e.g., public health.
- 2) Steps taken by the Cabinet, a Committee of the Cabinet, Officers, area Committees or joint arrangements discharging Cabinet functions to implement Council policy shall not exceed those ceilings allocated to each function. However, such bodies or individuals shall be entitled to vire within functions and between functions in accordance with the rules set out below. Directors shall be entitled to undertake unlimited virement within functional budgets. These virements must not result in a change to any functional budget.
- 3) Directors shall be entitled to undertake individual virements across functions within their Directorate of up to £25k thereby increasing/decreasing functional budget ceilings on the assumption that any increase/decrease does not change the overall Directorate budget ceiling. Directors shall be required to report such virements to Cabinet.
- 4) The Chief Executive and Chief Finance Officer shall be entitled to undertake individual virements within Directorates and across functions of up to £100k thereby increasing/decreasing functional budgets on the assumption that any increase/decrease does not change the overall Council budget. The Chief Executive/Chief Finance Officer shall be required to report such virements to Cabinet.
- 5) Cabinet shall be entitled to increase any functional budget by £250k in any one year to a cumulative value of £500k across all functions from earmarked reserves or general fund resources
- 6) Cabinet is authorised to approve virements from earmarked reserves without limits on the basis that use of the reserve is consistent with its original purpose. Cabinet is authorised to approve virements to earmarked reserves up the maximum limit for that reserve set by Council.
- 7) Only Council is entitled to establish new earmarked reserves including a maximum ceiling for those reserves, allocate any funds received after the budget was approved or authorise changes to individual functional ceilings in excess of £250k and authorise cumulative changes in excess of £250k

## **PROCEDURE RULE 198**

### **IN YEAR CHANGES TO POLICY FRAMEWORK**

- 1) The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Cabinet, a Committee of the Cabinet, officers or joint arrangements discharging executive functions must be in line with it. No

changes to any policy and strategy which make up the Policy Framework may be made by those bodies or individuals except those changes of which a number of possibilities are presented below:

- a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint.
- b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- c) in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

Others may be designed to be specific to each strategy contained in the Policy Framework, for example:

- d) which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change.***

## **PROCEDURE RULE 199**

### **CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- 1) Where a Scrutiny Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the Policy Framework then it shall seek advice from the Monitoring Officer. Where a Scrutiny Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Chief Finance Officer.
- 2) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's and/or Chief Finance Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- 3) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget as appropriate, the Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 working days of the request by the Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief

Finance Officer. The Council may take any of the following actions:

- a) endorse a decision or proposal of the Cabinet decision taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be recorded and circulated to all councillors in the normal way.
- b) amend the Council's Financial Procedure Rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be recorded and circulated to all councillors in the normal way.
- c) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.

## **SECTION 7 - OFFICERS EMPLOYMENT PROCEDURE RULES**

**(Procedure Rules 200 - 209)**

### **PROCEDURE RULE 200**

#### **RECRUITMENT AND APPOINTMENT**

#### **RELATIVES OF MEMBERS OR OFFICERS**

- 1) Any candidate for an appointment with the Council shall disclose in writing to the Chief Executive whether to their knowledge they are related to any Member or any senior officer of the Council. Relation in this instance means parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council, or of the partner of such persons.
- 2) A candidate who fails to do so shall be disqualified and if appointed shall be liable to dismissal without notice. Every Member and senior officer of the Council shall notify the Chief Executive of any relationship which is known to exist between himself and a candidate. The Chief Executive shall report any such disclosures to the appropriate Committee.
- 3) Where relationship to a Member of the Council is disclosed the Procedure Rule 368 shall apply. The meaning of this Procedure Rule shall be stated either in the advertisement inviting applications for appointment or in any application form supplied by the Council.
- 4) No candidate so related to a councillor, or an officer will be appointed without the authority of the relevant chief officer, or an officer nominated by him.

5) For the purpose of this Procedure Rule “senior office” and “senior officer” means those designated as such for Human Resources matters.

6) **Seeking Support for Appointment**

a) Subject to paragraph 3), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

b) Subject to paragraph 3), no councillor will seek support for any person for any appointment with the Council.

**PROCEDURE RULE 201**

**RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS**

1) Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will draw up a statement specifying:

- a) the duties of the officer concerned; and
- b) any qualifications or qualities to be sought in the person to be appointed.
- c) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- d) make arrangements for a copy of the statement mentioned in paragraph a) to be sent to any person on request.

**PROCEDURE RULE 202**

**APPOINTMENT OF HEAD OF PAID SERVICE**

1) This process is subject to mandatory regulations.

a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Committee or sub-Committee of the Council. That Committee or sub-Committee must include at least one member of the Cabinet.

b) The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet.

**PROCEDURE RULE 203**

**APPOINTMENT OF CHIEF OFFICERS**

1) This process is subject to proposed mandatory regulations.

2) For the purposes of this Procedure Rule “Chief Officer” means:

- a) the Head of the Paid Service, designated under Section 4(1) of the 1989 Act.
  - b) a statutory Chief Officer mentioned in paragraphs (a), (c) or (d) of Section 2(6) of the 1989 Act.
  - c) non-statutory Chief Officers who are members of the Corporate Leadership Team.
  - d) any reference to an appointment or purported appointment of a Chief Officer includes a reference to the engagement or purported engagement of such an Officer under a contract of employment.
- 3) When the Council proposes to appoint a Chief Officer, and it is not proposed that the appointment be made exclusively from among their existing officers, it will:
- a) draw up a statement specifying -
    - i) the job description of the officer concerned, and
    - ii) the person specification listing any qualifications or qualities to be sought in the person to be appointed;
  - b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.
  - d) where a post has been advertised as provided in paragraph (b), the Council shall
    - i) interview all qualified applicants for the post, or
    - ii) select a short list of such qualified applicants and interview those included on the short list.
- 4) If no qualified person applies, the authority shall make further arrangements for advertisement in accordance with paragraph (b).
- 5) Before the Council appoints a person as a Chief Officer, the Monitoring Officer shall report to the Council:
- a) whether, in their opinion, the appointment can be made
    - i) without the contravention of any provision of Part I of the Local Government and Housing Act 1989, and
    - ii) without taking into account any matter which ought not to be taken into account either because of any statute, enactment or any provisions of these Procedure Rules; and
  - b) if in their opinion the appointment cannot be made as mentioned in sub paragraphs i) and ii) of paragraph a) above, their reasons for that opinion.
- 6) A Committee or sub-Committee of the Council will appoint Chief Officers who are part of the Council's Corporate Leadership Team, with the exception of the Chief

Executive. This committee will be called the Chief Officer Appointment Committee and shall consist of three members of the Employment and Appeals Committee plus the relevant Cabinet Member(s). Political balance applies to this Committee.

- 7) An offer of employment as a Chief Officer, as an officer that is part of the Council's Corporate Leadership Team shall only be made where no well-founded objection from any member of the Cabinet has been received.
- 8) The Chief Executive may appoint interim Chief Officers provided the processes identified above are then followed for any subsequent permanent appointment.

## **PROCEDURE RULE 204**

### **OTHER STAFF APPOINTMENTS**

- 1) Officers at or below deputy chief officer level. Appointment of officers at or below deputy chief officer level (other than assistants to political groups) is the responsibility of the Head of Paid Service or his or her nominee and may not be made by councillors.
- 2) Assistants to political groups. Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

## **PROCEDURE RULE 205**

### **DISCIPLINARY ACTION - CHIEF EXECUTIVE, MONITORING OFFICER AND CHIEF FINANCIAL OFFICER**

(CORE PROCEDURE RULE)

- 1) A decision to dismiss any of the Council's statutory officers – Head of Paid Service, Monitoring Officer or Chief Financial Officer can only be made by resolution of the Full Council and that the following procedures have been complied with. This is as required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- 2) The Council will appoint a Committee under section 102(4) of the Local Government Act 1972(d) for the purposes of advising the Council on matters relating to the dismissal of relevant officers of the Council. Such Committee will include the appointment of two relevant Independent Persons.
- 3) Relevant Independent Persons means any independent person who has been appointed by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.
- 4) Subject to paragraph 6, the Council must appoint to the Committee such relevant independent persons who have accepted an invitation in accordance with paragraph 2 and in accordance with the following priority order –



- a) a relevant independent person who has been appointed by the Council and who is a local government elector
  - b) any other relevant independent person who has been appointed by the Council
  - c) a relevant independent person who has been appointed by another Council or authorities.
- 5) The Council must appoint the Committee at least 20 working days before the meeting at which the Council will decide whether or not to approve a proposal to dismiss.
- 6) Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular –
- a) any advice, views or recommendations of the Committee
  - b) the conclusions of any investigation into the proposed dismissal, and
  - c) any representations from the relevant officer.
- 7) Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Committee will not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 act.

**PROCEDURE RULE 206**  
**DISCIPLINARY ACTION - OTHER STAFF**

Councillors will not be involved in disciplinary action against any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to members in respect of disciplinary action.

**PROCEDURE RULE 207**  
**DISMISSAL OF OFFICERS**

- 1) Councillors will not be involved in the dismissal of any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to members in respect of dismissals.
- 2) In this Procedure Rule, "Dismissal Procedure" means any action related to:
- a) misconduct by; or
  - b) the lack of capability of an employee of the Authority

where it is intended that such action should be recorded or would be recorded according to the usual practice of the Authority, on the personal file of the employee, and it shall include dismissal for any reason except redundancy or failure to renew a fixed-term contract which has expired.

- 3) In this Procedure Rule, the “Appeals Committee” means the group of Members of the Authority appointed to consider appeals by employees against Dismissal Procedures taken against them.
- 4) No Dismissal Procedures shall be taken except in a manner which is fair to the employee concerned, and which is in accordance with procedures approved by the Council from time to time upon consideration of a report by the Head of the Authority’s Paid Service under section 4(3)(d) of the 1989 Act.
- 5) Except in relation to Chief Officers no Dismissal Procedures shall be initiated or taken by any person or body of persons other than the Head of the Authority’s Paid Service or the Chief Officer of the department in which the employee works or such other officer as the Head of the Authority’s Paid Service or that Chief Officer may authorise for that purpose.
- 6) Where an appeal against Dismissal Procedures taken under paragraph 5) is made to the Appeals Committee, a report shall be submitted to that Committee setting out the facts which led to the disciplinary action against which the appeal is made, the Dismissal Procedure taken, the reasons for that action, and the recommendations on the appeal of the person preparing the report. The report shall be prepared in accordance with the procedures approved by the Council, by the Head of the Authority’s Paid Service, the Chief Officer of the department in which the employee works, or such other Chief Officer as the Head of the Authority’s Paid Service shall designate.
- 7) A copy of the report under the last paragraph shall be given to the employee concerned.
- 8) The Members of the Appeals Committee shall be supplied, at the Authority’s expense, with a copy of any representations in writing submitted by the person making the appeal. The Appeals Committee shall be advised by the Head of the Authority’s Paid Service (if they did not prepare the report under paragraph 6) or by a Chief Officer other than one who prepared the report under paragraph 6).
- 9) The Appeals Committee shall not make any decision on the appeal which would result in the employee concerned suffering a disciplinary penalty more severe than that recommended in the report under paragraph 6).

## **PROCEDURE RULE 208**

### **OFFICERS' INTERESTS**

- 1) In addition to their duty under section 117 of the 1972 Act an officer must disclose in writing to the Monitoring Officer any pecuniary or non-pecuniary interest they have in any contract or matter to be considered at any meeting as soon as possible after they become aware of the interest. The Monitoring Officer shall keep a register for this

purpose. This does not apply to their contract of employment with the authority, or the tenancy of a dwelling provided by the authority

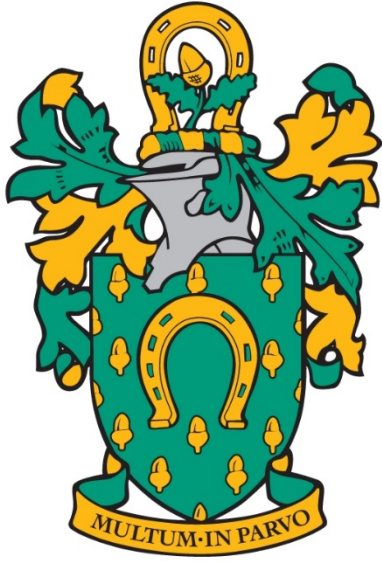
- 2) A disclosable pecuniary interest is one that, if the officer were a Member of the Council, and if the contract or other matter were to be considered at a meeting of the Council at which he or she were present, they would have to disclose under section 94 of the 1972 Act.
- 3) The Monitoring Officer shall keep a separate record of any notice of a pecuniary interest given by an officer of the authority under Section 117 of the 1972 Act or paragraph 1). The record shall be open for inspection by any Member of the Council during office hours, and at times when the Council Offices are open for meetings.
- 4) When an officer submits a report to a meeting on a matter in which they have declared an interest under section 117 of the 1972 Act or paragraph 1), they shall state that a declaration has been made and given brief details of it in a separate paragraph at the beginning of the report.
- 5) When an officer provides advice at a meeting on any matter in which they have declared a pecuniary interest, whether under the requirements of Section 117 of the 1972 Act, or of paragraph 1), they shall remind the meeting of that interest.
- 6) An officer must not, in the course of their duty as an officer or employee of the Council, accept any fee or reward whatsoever other than their proper remuneration.

## **PROCEDURE RULE 209**

### **NON-DIRECTION TO PERSONS MAKING APPOINTMENTS OR TAKING DISCIPLINARY ACTION**

- 1) Anybody or person who is appointed to take any step in relation to an appointment, take disciplinary action or follow a dismissal procedure, may give any direction as may be necessary to give effect to a decision taken in pursuance of that appointment, subject to paragraph 3).
- 2) The Council or any Committee or Sub-Committee may call for a review of the conduct or capability of any employees, subject to paragraph 3).
- 3) The Council, a Committee, a Sub-Committee nor any body or person appointed to carry out any matters in paragraph 1 shall:
  - a) give directions to anyone taking any step in relation to an appointment to a post in the paid service of the Authority as to the identity of the person to be appointed to that post;
  - b) give directions to anyone about the taking of any disciplinary action or following a dismissal procedure against a person in the paid service of the Authority; or
  - c) otherwise interfere with the making of any appointment, the taking of disciplinary action or the following of a dismissal procedure.





# Rutland County Council

## PART 5 OF THE CONSTITUTION CODES AND PROTOCOLS

This part contains the following Codes and Protocols that have been agreed and approved by the Council.

- 1) Codes and Protocols are the Councils internal framework for ensuring good practice and compliance with the law arising from individuals taking part in and carrying out duties in connection with Council, Cabinet and Scrutiny functions.
- 2) These Codes and Protocols are based upon statutory requirements, statutory guidance, good practice guides and professional advice from a number of relevant bodies.
- 3) The following Codes and Protocols are contained in this part of the Constitution:

5a – Members Code of Conduct

5b – Officers Code of Conduct

5c – Member and Officer Relations

5d – Members Planning Code of Good Practice

5e – Public Speaking Scheme for Planning Applications

5f – Petition Guidance

# **RUTLAND COUNTY COUNCIL DISTRICT COUNCIL CONSTITUTION**

## **PART 5 – CODES AND PROTOCOLS**

### **MEMBERS’ CODE OF CONDUCT**

#### **BACKGROUND TO THIS CODE OF CONDUCT**

This section sets out general interpretation and background to the Code of Conduct, including definitions used within the code, the purpose of the code, the principles the code is based on and when the code applies. It does not form part of the Code of Conduct itself and consequently does not contain any obligations for you to follow, as these are contained in the ‘Code of Conduct’ section below. All councils are required to have a local Member Code of Conduct.

#### **DEFINITIONS**

For the purposes of this Code of Conduct, a “member” means a member or co-opted member of Rutland Council (‘the Council’).

A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or.
- b) is a member of, and represents the authority on, any joint committee or joint subcommittee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

#### **PURPOSE OF THE CODE OF CONDUCT**

The purpose of this Code of Conduct is to assist you, as a member, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow members, Council officers and the reputation of the council and local government. It sets out general principles of conduct expected of all members and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of member and local government.

#### **GENERAL PRINCIPLES OF MEMBER CONDUCT**

Everyone in public office at all levels; i.e. all who serve the public or deliver public services, including ministers, civil servants, members and council officers; should

uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles, which are set out in Appendix A.

Building on these principles, the following general principles have been developed specifically for the role of member and these principles underpin the obligations in the Code of Conduct that follows. In accordance with the public trust placed in you, you should:

- act with integrity and honesty
- act lawfully
- treat all persons fairly and with respect; and
- lead by example and act in a way that secures public confidence in the role of member.

In undertaking your role, you should:

- impartially exercise your responsibilities in the interests of the local community
- do not improperly seek to confer an advantage, or disadvantage, on any person
- avoid conflicts of interest
- exercise reasonable care and diligence.
- ensure that public resources are used prudently in accordance with your Council's requirements and in the public interest; and
- uphold high standards of conduct, show leadership at all times and not misuse your position when acting as a member.

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

This Code of Conduct applies to you as a member or co-opted member of the Council. It applies as soon as you sign your declaration of acceptance of the office of member or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a member.

This Code of Conduct applies to you when you:

- act in your capacity as a member or co-opted member of the Council; and
- conduct the business of the Council (which, in this Code, includes the business of the office to which you are elected or appointed).

Where you act as a representative of the Council:

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

The Code applies to all forms of communication and interaction, including:



- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct. It is your responsibility to comply with the provisions of this Code and to ensure all its obligations are met. You are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct which you are unsure of.

## **STANDARDS OF MEMBER CONDUCT**

This section sets out your obligations, which are the minimum standards of conduct required of you as a member. Should your conduct be perceived to fall short of these standards or the Nolan Principles, a complaint may be made against you, which may result in action being taken. Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **GENERAL CONDUCT**

#### **1. Respect**

**As a member:**

**1.1 I will treat others member with respect.**

**1.2 I will treat council officers, employees and representatives of partner organisations and those volunteering for the council with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a member, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in members.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and notify them to the Council, the relevant social media provider or the police. This also applies to fellow members, where action could then be taken under the Member Code of Conduct, and council

officers where concerns should be raised in line with the council's member-officer protocol.

## **2. Bullying, harassment and discrimination**

**As a member:**

**2.1 I will not bully any person.**

**2.2 I will not harass any person.**

**2.3 I will promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Members have a central role to play in ensuring that equality issues are integral to the Council's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

## **3. Impartiality of officers of the Council**

**As a member:**

**3.1 I will not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the council.**

Officers work for the council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

#### **4. Confidentiality and access to Information**

**As a member:**

##### **4.1 I will not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it.**
  - ii. I am required by law to do so.**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the Council; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

**4.2 I will not improperly use knowledge gained solely as a result of my role as a member for the advancement of myself, my friends, my family members, my employer or my business interests.**

**4.3 I will not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the council must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

#### **5. Disrepute**

**As a member:**

**5.1 I will not bring my role or Council into disrepute or conduct myself in a manner which could reasonably be regarded as bringing my role or Council into disrepute.**

As a Member, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other members and/or the Council and may lower the public's confidence in you or the Council's ability to discharge your/its functions. For example,

behaviour that is considered dishonest and/or deceitful can bring the Council into disrepute.

You are able to hold the Council and fellow members to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

**As a member:**

**6.1 I will not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

**6.2 I will not place myself under a financial or other obligation to outside individuals or organisations that might seek to influence me in the performance of my official duties.**

Your position as a member of the Council provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

As a member you need to be able to act impartially in the exercise of your responsibilities and ensure that you make decisions in the interests of the local community. You should therefore avoid any financial or other obligations to outside individuals or organisations whose influence may prevent you from acting impartially.

## **7. Use of Council resources and facilities**

**As a member:**

**7.1 I will not misuse council resources.**

**7.2 I will, when using the resources of the Council or authorising their use by others:**

- a. act in accordance with the Council's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the Council to assist you in carrying out your duties as a member.

Examples include:

- office support
- stationery

- equipment such as phones, iPad, dongles computers etc.
- transport
- access and use of council buildings and rooms.

These are given to you to help you carry out your role as a member more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the council's own policies regarding their use.

## **8. Making decisions**

**As a member:**

**8.1 When reaching decisions on any matter I will have regard to any relevant advice provided to me by officers and professional third parties.**

**8.2 I will give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed.**

**8.3 I will make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on individual and independent merit**

**8.4 I will be as open as possible about my decisions and actions and the decisions and actions of the authority and will be prepared to give reasons for those decisions and actions, notwithstanding my other obligations under this Code.**

To assist members in acting lawfully, officers may give advice from time to time. It is important that as a member you have due regard to any such advice given and consider it fully, even if (for good reason) you may choose not to follow that advice.

In making any decisions, giving reasons helps instil public confidence in the role of the member and can be a legal requirement in certain situations. You should ensure that you always give reasons in accordance with any specific requirements and having regard to the benefits of transparency generally.

As a member you must act impartially and not improperly seek to confer an advantage, or disadvantage, on any person. It is therefore important that when you are making decisions that involve choosing one party over another, that you do so based on independent merit. You should be open and transparent about the decisions that you have made and the actions of the authority.

## **9. Complying with the Code of Conduct**

**As a Member:**

**9.1 I will undertake Code of Conduct training provided by my Council.**

**9.2 I will cooperate with any Code of Conduct investigation and/or determination.**

**9.3 I will not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**9.4 I will comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a member to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the Council or its governance. If you do not understand or are concerned about the council's processes in handling a complaint you should raise this with the Monitoring Officer.

## **PROTECTING YOUR REPUTATION AND THE REPUTATION OF THE COUNCIL**

### **10. Interests**

**As a member:**

**10.1 I will register and disclose my interests in accordance with the provisions set out in Appendix B**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, Council employees and fellow members know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other members when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as defined in Appendix B, is a criminal offence under the Localism Act 2011.

The provisions of this paragraph 10.1 shall be applied in such a manner as to recognise that this Code of Conduct should not obstruct a member's service on more than one local authority. For the avoidance of doubt, participation in discussion and decision-making at one local authority will not by itself normally prevent you from taking part in discussion and decision-making on the same matter at another local authority. This is on the basis that a reasonable member of the public will see no objection in principle to such service or regard it as prejudicing a member's judgement of the public interest and will only regard a matter as giving rise to an interest which might lead to bias in exceptional circumstances.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from the Monitoring Officer, or from the clerk in the case of town and parish councils.

## **11. Gifts and hospitality**

### **As a member:**

- 11.1 I will not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.**
  
- 11.2 I will register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
  
- 11.3 I will register with the Monitoring Officer any significant gift or hospitality with an estimated value of at least £50 that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the Council, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a member. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a member. If you are unsure, do contact the Monitoring Officer or Clerk for guidance.

## **12. Dispensations**

### **As a member:**

- 12.1 I may request a dispensation from the Monitoring Officer for one meeting only.**
  
- 12.2 I must make the request in writing detailing what my interest is, why the dispensation is required and for what meeting.**
  
- 12.3 I must make my request 5 days prior to the meeting at which the Dispensation is required.**
  
- 12.4 If I wish to make a further request for dispensation, this must be made to the Monitoring Officer.**

**12.5 I will only be granted a Dispensation where there are reasonable grounds for doing so and where such grounds are in the public interest.**

Appendix B sets out the situations where a Member's personal interest in a matter may prevent them from participating in the decision-making process. In certain circumstances, however, there may be reasonable grounds to allow a Member to participate in decision-making on that matter where it would be in the public interest to do so. Where you consider that there may be good grounds for you to continue to participate you should request a dispensation from the Monitoring Officer.

[Sections 13- 15; Previously SECTION 8 - MEMBERS PROCEDURE RULES (Procedure rules 360-389)]

**13. Inspection of Land**

1) If a Member of the Council wishes to have access to land or buildings in the occupation of the Council to which the public do not have access and to which Members of the Council do not regularly have access, he shall apply to the appropriate Chief Officer giving at least 24 hours' notice. Unless the Chief Officer considers that there is good reason why such access should not be given, he shall give permission, but may attach conditions to that permission, including in particular a condition that the Member shall be accompanied by an Officer of the Authority. No Member shall make any orders on such premises.

4. No Member of the Council and no other Member (whether voting or non-voting) of a Committee or Sub-Committee or Scrutiny Committee or Sub-Committee shall have any claim by virtue of his position:

a) to enter any land or buildings occupied by the Authority to which the public do not have access or to which Members of the Council do not regularly have access except with the permission of the Chief Executive.

b) to exercise any power of the Authority to enter or inspect other land or buildings, except where specifically authorised to do so by the Authority.

c) to exercise any other power of the Authority.

d) to issue an order, with respect to any works which are being carried out by, or on behalf of, the Authority, or with respect to goods or services which are being, or might be, purchased by the Authority.

3) The Proper Officer for the purposes of section 100(F)(2) of the 1972 Act and for the purposes of this Procedure Rule is the Chief Executive.

**14 USE OF PUBLIC FUNDS**



Members must not use public funds to publish any material that appears to be designed to influence public support for a particular political party. This would include comments on policies that are associated with a political or particular party.

## **15 TRADE UNION NEGOTIATIONS**

A Member may not represent the Council in negotiations over the terms and conditions of the Council's workforce if the Member is either a local government employee or is an official of, or employed by, a trade union which contains local authority employees in its membership.

ENDS

## **APPENDICES**

### **Appendix A – The Seven Principles of Public**

**Life** The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B – Interests

### 1. Definitions

“**Disclosable Pecuniary Interest**” means any interest described as such in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#) and includes an interest of yourself, or of your Partner (if you are aware of your Partner's interest) that falls within the descriptions set out in the following table. A Disclosable Pecuniary Interest is a Registerable Interest.

Subject	Description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the member during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a member, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the member or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —  (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. ‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the member

	or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the member's knowledge)— (a) the landlord is the council; and the tenant is a body that the member, or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the member's knowledge) has a place of business or land in the area of the council; and (b) either— (i) ) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the member, or his/ her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial

Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

**"Other Registerable Interest"** is a personal interest in any business of your authority which relates to or is likely to affect:

- a) anybody of which you are in general control or management and to which you are nominated or appointed by your authority; or
- b) any body
  - (i) exercising functions of a public nature
  - (ii) any body directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

**"Registrable Interests"** are interests that you are required to register in accordance with this Code of Conduct and include both Disclosable Pecuniary Interests and Other Registerable Interests.

**"Non-Registrable Interests"** are interests that you are not required to register but need to be disclosed in accordance with section 3.3.

A **"Dispensation"** is agreement that you may continue to participate in the decision-making process notwithstanding your interest as detailed at section 12 of the Code of the Conduct and this Appendix B.

A **"Sensitive Interest"** is as an interest which, if disclosed, could lead to the member, or a person connected with the member, being subject to violence or intimidation. In any case where this Code of Conduct requires to you to disclose an interest (subject to the agreement of the Monitoring Officer in accordance with paragraph 2.2 of this Appendix regarding registration of interests), you do not have to disclose the nature of the interest, if it is a Sensitive Interest. In such circumstances you just have to disclose that you have an interest.

A matter **"directly relates"** to one of your interests where the matter is directly about that interest. For example, the matter being discussed is an application about a particular property in which you or somebody associated with you has a financial interest.

A matter **"affects"** your interest where the matter is not directly about that interest but would still have clear implications for the interest. For example, the matter concerns a neighbouring property.

## 2. Registering Interests

- 2.1. Within 28 days of becoming a member or co-opted member or your re-election or re-appointment to office you must register with the Monitoring Officer any Disclosable Pecuniary Interests and any Other Registerable Interests.
- 2.2. Where you have a Sensitive Interest, you must notify the Monitoring Officer with the reasons why you believe it is a Sensitive Interest. If the Monitoring Officer agrees they will withhold the interest from the public register.
- 2.3. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

## 3. Declaration at and Participation in Meetings

If you are present at a meeting and you have either a Registerable or Non-Registerable Interest in any matter to be considered or being considered, and the interest is not a Sensitive Interest, you must disclose that interest to the meeting (whether or not it is registered).

To determine whether your interest affects your ability to participate in a meeting, you must first determine what type of interest you have and, if necessary, go on to apply the tests as set out below.

### 3.1. Disclosable Pecuniary Interests

- 3.1.1. Where a matter arises at a meeting which **directly relates** to one of your Disclosable Pecuniary Interests subject to paragraph 3.2.2 below:
  - a. you must disclose the interest.
  - b. not participate in any discussion or vote on the matter; and
  - c. must not remain in the room unless you have been granted a Dispensation.

### 3.2. Other Registerable Interests

- 3.2.1. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests subject to paragraph 3.2.2 below:
  - a. you must disclose the interest.

- b. may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter; and
- c. must not remain in the room unless you have been granted a Dispensation.

3.2.2 The provisions of paragraph 3.1.1 and 3.2.1 shall be applied in such a manner as to recognise that this Code should not obstruct a member's service on more than one local authority. For the avoidance of doubt, participation in discussion and decision making at one local authority will not by itself normally prevent you from taking part in discussion and decision making on the same matter at another local authority. This is on the basis that a reasonable member of the public will see no objection in principle to such service or regard it as prejudicing a member's judgement of the public interest and will only regard a matter as giving rise to a Personal Interest which might lead to bias in exceptional circumstances.

### 3.3. Non-Registerable Interests

Where a matter arises at a meeting which **directly relates** to a financial interest or the well-being of yourself or of a friend, relative or close associate (and is not a Registerable Interest): you must disclose the interest; may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter; and must not remain in the room unless you have been granted a Dispensation.

3.3.1. Where a matter arises at a meeting which does not directly relate to but **affects**

- a. a financial interest or the well-being of yourself or of a friend, relative or close associate; or
  - b. a financial interest or wellbeing of a body included in those you need to disclose under Other Registerable Interests
- you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test in paragraphs 3.3.2 and 3.3.3 should be applied.

3.3.2. Where a matter under paragraph 3.3.1 **affects** the financial interest or well-being or body:

- a. to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision; and
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest;

you may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a Dispensation.

3.3.3. Where a matter under paragraph 3.3.1 does not affect the financial interest or well-being or body:

- a. to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision; and/or
- b. a reasonable member of the public knowing all the facts would not believe that it would affect your view of the wider public interest;

you may remain in the room, speak if you wish to and take part in any discussion or vote on the matter, provided you have disclosed your interest under paragraph 3.3.1.

#### **4. Single-Member-Decision-Making**

4.1. The Council does operate single-member-decision-making from time to time . In the event that you are making a decision as a single member the following section applies in relation to any interests you may have.

4.1.1. Where you have a personal interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function (i.e. single-member-decision-making) and the interest is:

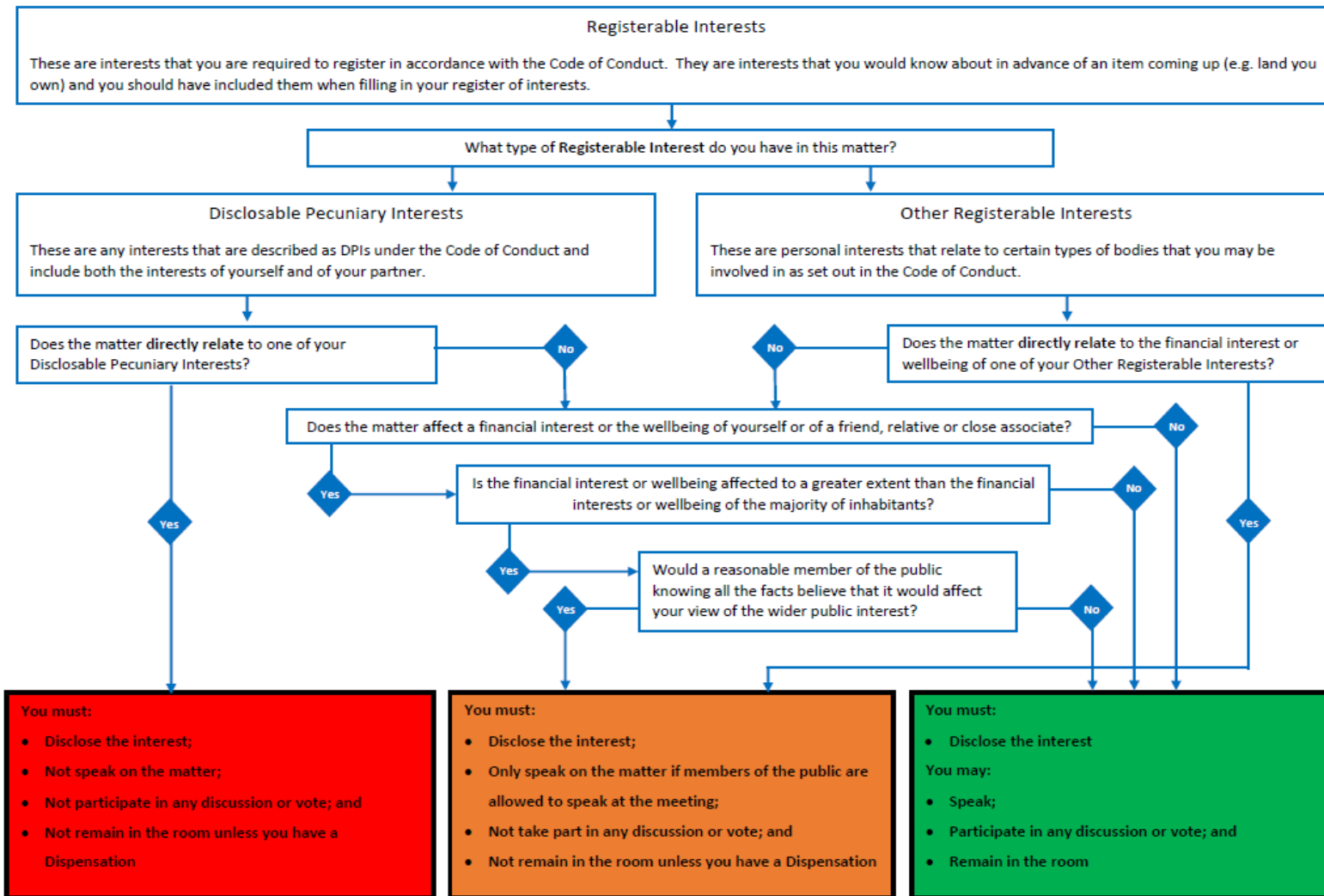
- a. A Registrable Interest; or
- b. A Non-Registrable Interest that falls under paragraph 3.3.2 above;

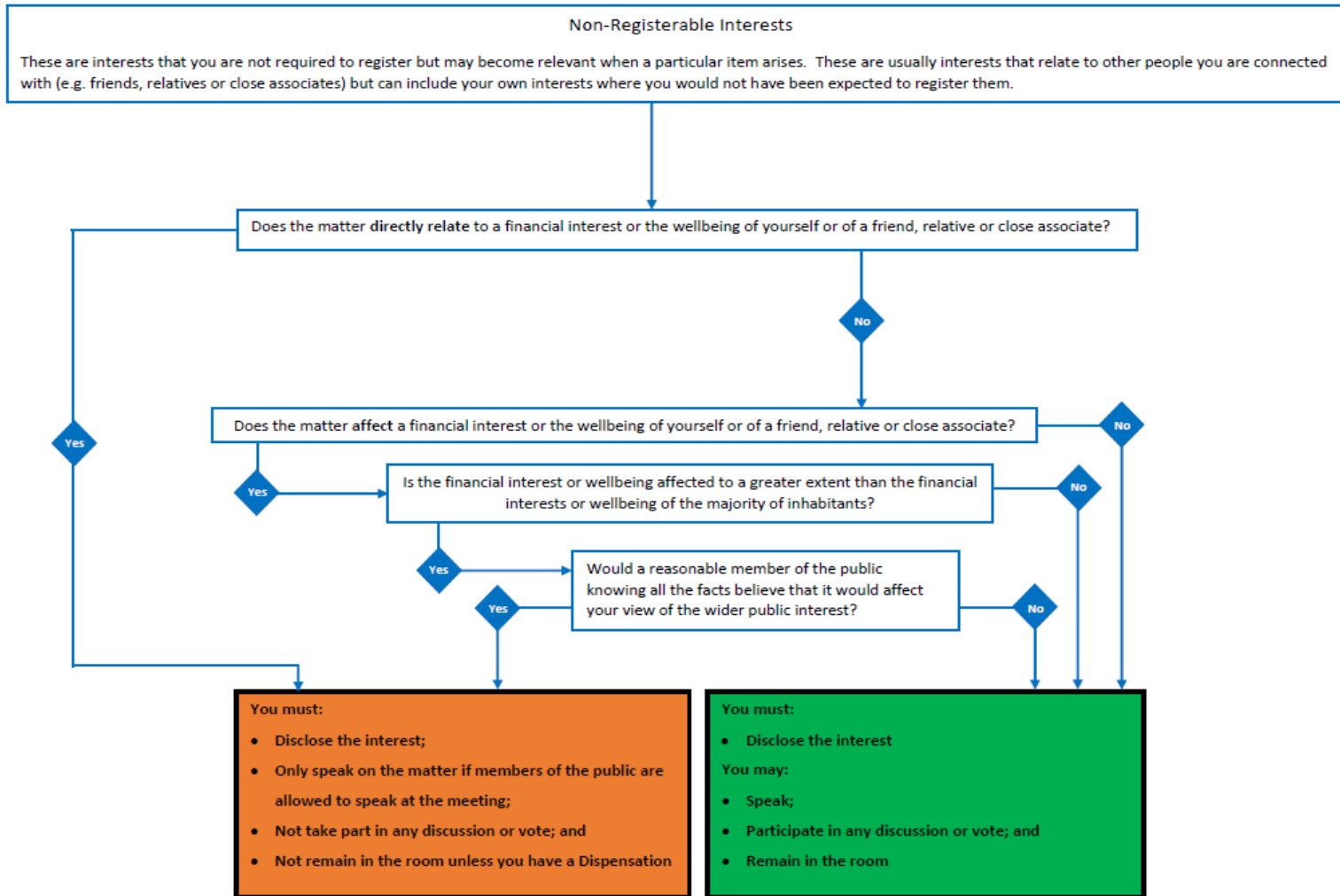
you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

4.1.2. Where you have a personal interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function (i.e. single-member-decision-making) and the interest is a Non-Registrable Interest that falls under paragraph 3.3.3 , you must



make sure that any written statement of that decision records the existence and nature of your interest.





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# **RUTLAND COUNTY COUNCIL DISTRICT COUNCIL CONSTITUTION**

## **PART 5 - CODES AND PROTOCOLS**

### **Employee Code of Conduct**

This Policy applies to all employees of Rutland County Council, except those based in Schools and Colleges.

The public expects the highest standards of conduct and service from all employees of the Council. The Employee Code of Conduct sets out the standards of behaviour which as Council employees, we all need to work to in serving the people of Rutland.

The Code forms part of an employee's conditions of service and it is their responsibility to read and apply the standards set out in this and related documents including professional codes, policies and guidance. Any employee deliberately or knowingly acting outside the Code will be viewed as a serious matter that could result in disciplinary action.

Where an employee is a member of a professional body, they must ensure that they adhere to any professional code(s) of conduct in place in addition to this Code of Conduct.

## **1.0 General Principles**

- 1.1 The Employee's Code of Conduct establishes a set of core principles and standards which underpin the concept of public service and which are applicable to all employees of the Council regardless whether they work full time, part-time, casual or on a relief/interim basis.
- 1.2 The Council's vision is to ensure Rutland is a great place to live, work, play and visit. The Council's values underpin how we operate to service our Community.

## **2.0 Accountability**

- 2.1 Employees must be accountable to the authority for their actions. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.
- 2.2 If an employee's post is exempt from the Rehabilitation of Offenders Act and subject to a Disclosure and Barring Service check, they are obliged to notify their manager of any convictions, warnings, cautions, reprimands etc, no matter how minor, during their employment. All staff are required to disclose any conviction, warning, caution or reprimand that has the potential to impact their job.

## **3.0 Honesty, Integrity, Impartiality and Objectivity**

- 3.1 Employees must perform their duties with honesty, integrity, impartiality and objectivity.
- 3.2 Employees in receipt of allowances or council tax discounts administered by the Council (eg. rent allowances or council tax discounts) must notify the appropriate department promptly, in writing, of any change in circumstances that may affect entitlement. To deliberately fail to notify any material change of circumstance that results in overpayments being made, may be deemed a fraudulent act against the employer.

## **4.0 Duty of Trust**

- 4.1 Employees must at all times, act in accordance with the trust that the public is entitled to place in them.
- 4.2 Any employee who is not clear about the application of this code in relation to particular circumstances should seek guidance from their line manager or the Human Resources team.
- 4.3 Employees whose work relies upon them fostering close relationships with members of the public, should adhere to the guidelines within this code to ensure that all contact is conducted on a professional basis.

## **5.0 Respect for Others**

- 5.1 A commitment by all employees to implement equalities in all aspects of their work is fundamental to effective service provision and effective working relationships. All

members of the local community, customers and other employees have a right to be treated with fairness, respect and equity.

- 5.2 Employees are expected to carry out their duties in compliance with the Council's Equality and Diversity Policies and undertake Equality and Diversity training
- 5.3 The Council will not tolerate discriminatory behaviour, including harassment, which will be dealt with in accordance with the Council's Disciplinary procedure and Grievance procedure which includes Harassment, Discrimination and Bullying procedure.
- 5.4 Employees must treat colleagues with courtesy and respect. Employees must not abuse colleagues verbally or physically.
- 5.5 Communication between employees should at all times remain professional and show respect for others' feelings and opinions.

## **6.0 Stewardship**

- 6.1 The Council has adopted a set of values that underpin how we operate within the Council to serve our community – these values are supported by our Strategic Aims and Objectives. The Council will support staff in understanding the part they play in delivering these objectives through management support and mechanisms such as our Personal Development Review scheme.
- 6.2 Employees must use public funds entrusted to or handled by them, in a responsible and lawful manner and not make personal use of property or facilities of the Council unless properly authorised to do so.
- 6.3 Employees should follow the Council's rules on the ownership of intellectual property or copyright created during their employment.
- 6.4 Employees should not make use of Council facilities, such as telephone, computers, etc. where this is related to outside work for another employer. Neither should they undertake any correspondence or incoming/outgoing phone calls relating to external work.
- 6.5 The Council's telephone, computer system, the Council's Crest, other equipment and materials (including headed paper) are the property of Rutland County Council and are provided for employee's business purposes and for interaction with the public in the delivery of services. Council property, plant, vehicles, money and services should only be used for the Council's purposes.
- 6.6 Some personal use of the Council's electronic communication facilities and devices including phone, internet and email is permitted outside of the working day, provided it is within the scope of the Council's Email and Internet Policy. The e-mail and internet system must not be abused. Usage of such systems will be monitored through normal management practice and route checks of the Council's IT systems.
- 6.7 Individuals' use of their own personal mobile phones should, as far as possible be contained to non-working time to avoid any disruption to an employee or colleague undertaking their role. In addition:

- Employees should ensure that mobile phones and other communication devices are switched to silent during working hours.
  - The Council recognises that on occasions, employees may need to be contacted at work on urgent personal matters – in such circumstances an appropriate direct line phone number can be provided.
- 6.8 The Council's Financial Regulations and Anti-Fraud and Corruption Policy must be adhered to at all times.
- 6.9 Employees should not use their position within the Council to see or receive preferential rates from organisations or Council contractors.
- 6.10 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

## **7.0 Safeguarding**

- 7.1 Employees should be aware that sensitive, confidential information should not be left on desks or in places where access is available to general staff/visitors.
- 7.2 Employees should not hold sensitive confidential information on memory sticks or desktops. Any such information may only be held on encrypted memory sticks and the main IT server.
- 7.3 Employees should be aware that not all staff/visitors will have DBS clearance and to exercise vigilance when asked for information of a confidential or sensitive nature.
- 7.4 Employees should consult with their line manager if they have a concern which relates to safeguarding children, young people and adults.
- 7.5 Employees should keep the minimum amount of personal information about children (dependant on job role) and ensure compliance with the principles of data protection in storing and using information.
- 7.6 Photographs of children may only be kept with the parent's consent.
- 7.7 Employees should report immediately any concerns they have about a child or adult, or any allegations made to them about a child or adult or by a child or adult.
- 7.8 All employees are required to attend safeguarding awareness training as part of the induction and probationary procedure.

## **8.0 Personal Interests**

- 8.1 Employees must not, in their official or personal capacity, allow their personal interests to conflict with the Council's requirements, or use their position improperly to confer an advantage or disadvantage on any person. Such interests are not exclusive to the employee and could include interests of family or friends. Employees should declare any such interest and their Director, in consultation with the Strategic Director for Law and Governance if required, will decide whether the interest conflicts with those of the Council.



- 8.2 Activities of the Council's employees outside the working environment may be under public scrutiny and therefore the Code requires high standards of conduct.
- 8.3 Employees must be clear about their contractual obligations and should not take additional or 'outside' commitments (paid or unpaid), which may infringe on their contractual work commitments, without gaining permission from their Line Manager. In any event, the total work time involved must not breach the Working Time Regulations.
- 8.4 Some roles/positions will have specific conditions to ensure an appropriate boundary exists between their employment with the Council and any activities they may undertake in their personal time (including voluntary activities). Such conditions are outlined in relevant professional codes of practice and standards, eg. Care Quality Commission. In such instances this must be disclosed and written consent obtained. Employees should refer to their Manager if they require further advice.
- 8.5 Employees should not carry out work, set up or accept employment with a business engaged in work which, in the view of the Council, conflicts with or is detrimental to the Council's interest or in any way weakens public confidence in the conduct of the Council's business. Employees should refer to the appropriate Director if they require further advice.
- 8.6 Employees should follow any guidance that may be issued by the Council on the acceptance of employment with a third party whilst still employed by the Council. In any event, the total work time involved must not breach the Working Time Regulations
- 8.7 Employees should not accept any fee or reward whatsoever other than proper remuneration in respect of any services given in relation to their work for the Council. Any such fee should be paid over to the Council.
- 8.8 Employees may, in a personal capacity whilst undertaking non-Council duties outside work, engage with the media and may reference the Council's activities or policies, but this must be approved by the relevant Director and the Council's Communications Team must be made aware and may provide support, if appropriate. Employees must be clear that any views they express, are their own and not necessarily those of the Council. Any engagement with the media by a Council employee in a work capacity is to be managed through the Communications Team. Further details are provided in the Rutland County Council Media Policy.

## **9.0 Registration of Interests**

- 9.1 Employees must comply with any requirements of the Council to register or declare interests that may conflict with those of the Council, as a consequence of their employment using the guidance and templates found in the Officers' Register of Interests Protocol (see Section 19 below).
- 9.2 Employees must declare annually to the Strategic Director for Law and Governance, through their Strategic Director, any financial and non-financial interests or commitments which may conflict with the Council's interests.

*Membership of, or activity on behalf of, a recognised trade union or professional society does not constitute such an interest. The Council encourages employees to take an active part in the life of the community. This Code of Conduct does not seek to discourage such involvement. If there is any doubt, advice should be sought from the Line Manager or Director.*

- 9.3 Employees should declare to their Strategic Director, membership of any organisation, lodge, chapter, society, trust or regular gathering or meeting which is not open to members of the public who are not members of that lodge, chapter, society or trust or requires secrecy about its rules, membership or conduct. The purpose of this provision is to prevent any conflicts of loyalty/interest arising.
- 9.4 Employees should advise the Strategic Director for Law and Governance, through their Strategic Director of their membership of any such organisation where in a specific instance, such membership constitutes (or can be perceived as) a conflict of interest.
- 9.5 Employees must advise the Strategic Director for Resources if they are declared bankrupt or are involved as a Director of a company which is wound up or put into voluntary liquidation if it may impact upon the employee's role and duties. Such information will be treated in the strictest confidence.
- 9.6 Further guidance and reporting procedures are covered in the [Officers' Register of Interests Protocol](#) at paragraph 19.

## **10.0 Political Neutrality**

- 10.1 Employees must serve the Council as a whole. They must serve all Elected members and not just those in the controlling group, and must ensure that the individual rights of all Members are respected.
- 10.2 Advice to Political groups must be given by, or with the consent of the relevant Director.
- 10.3 Employees whose posts are designated as politically restricted under the Local Government and Housing Act 1989 will be advised upon appointment and must adhere to those requirements.
- 10.4 Political Assistants appointed on full time contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in paragraphs 10.1 to 10.3
- 10.5 Employees must seek advice if they wish to stand for election as a Member for Rutland County Council or any other local authority as it could impact on their employment.
- 10.6 An employee, who is involved in politics in their own time, must not carry out any political activity which might lead the public to think they are acting in their capacity as a Council employee. It is particularly important, if a Member of another Council, to keep the two roles separate and not use confidential information obtained in one capacity in the other.

## 11.0 Reporting Procedures

- 11.1 The Council will not tolerate any form of malpractice. Employees have an important part to play in reporting any concerns and are expected to co-operate with investigations. The Council's Whistleblowing Policy demonstrates our commitment to support employees who are concerned about the conduct of the Council or individuals and to encourage them to make those concerns known.
- 11.2 The Council recognises that it is often difficult for employees to report legitimate concerns through fear of victimisation or reprisal. However, the Council can assure employees raising such concerns that they will be fully supported and there will be no adverse impact on their personal situation.
- 11.3 However, where it is shown that unfounded allegations have been made by an employee for malicious, frivolous or vexatious reasons, disciplinary action may be taken against them.
- 11.4 Complaints from a member of staff as a member of the community and user of Council services, not as an employee, should initially be raised with the provider department, and if this proves unsatisfactory, by then using the Council's Corporate Complaints Procedure.
- 11.5 Employees must also notify the appropriate department promptly if they have any reason to suspect that a member of the public is claiming Council administered benefits fraudulently, regardless of their circumstances as to how this information is obtained.

## 12.0 Relationships and Professional Boundaries

- 12.1 **Elected Members**  
Mutual respect between employees and Members is essential to good local government. Close personal familiarity between employees and individual Members can damage the relationship and prove embarrassing to other employees and Members and should therefore be avoided.
- 12.2 **Public**  
Employees should always remember their responsibilities to the community we serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community.
- 12.3 **Media**  
In general, all communications with the media relating to the activities of the Council are managed through the Communications Office.

Employees are not permitted to communicate with the media on matters relating to the activities of the Council without prior authority from the Communications Office and from the appropriate Strategic Director. Employees who are contacted direct by journalists should refer them to the Communications Office.

If an expression of opinion or official statement of policy is needed, employees must speak to the Strategic Communications Adviser.

Employees who have ideas for positive stories about the Council's policies and activities should contact the Communications Office.

Every assistance should be given to Members who need information to deal with questions from the media. Employees should refer to the relevant Director for further advice.

#### 12.4 Contractors/Consultants

All relationships of a business or private nature with internal or external contractors or consultants, or potential contractors or consultants, should be made known to the relevant Director and the Strategic Director for Law and Governance as they may have the potential to seriously compromise a Council decision.

Orders and contracts must be awarded on merit, by fair competition against other tenders. No part of the local community should be discriminated against when considering contracts and tenders.

Employees who engage or supervise contracts or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to their Director and the Strategic Director for Law and Governance.

Employees who are party to confidential information on tenders or costs for both external and internal contractors should not disclose that information to any unauthorised party or organisation.

#### 12.5 Employees

Employees must declare any personal relationships with another employee of the Council where the relationship could cause a conflict of interest, e.g. breach of the requirement for the separation of duties. In such instances there may be a need to consider alternative employment.

The Council defines a close personal relationship as one between employees who work together in the same team or department and who are:

- Married
- Civil Partners
- Co-habiting
- Dating
- Immediate family members, and

Any other individuals regarded as having a familial or close personal relationship.

Employees should not be involved in a work relationship where their partner is their line manager or vice versa.

Employees who do have a close personal relationship must advise their Director of their circumstances. The Director will then decide whether to instigate a move of one or both employees. If a Director agrees that both employees can remain in the same team, the situation should be reviewed by line management on a regular basis to ensure the situation does not affect the day to day business of the Council.

#### 12.6 Professional Boundaries

The Council has specific guidance that outlines expectations of staff in maintaining professional boundaries with service users

Close personal relationships with service users are prohibited. Service users may be from vulnerable groups in the community (eg. by age, disability, mental health etc) and the correct balance between friendly interest and the professional relationship must be maintained at all times to ensure that service users are not exploited. If a problem arises from a service user misinterpreting friendly interest as evidence of a deeper, more personal relationship developing, the employee must immediately report the matter to the appropriate line manager for advice on the way to proceed.

Service users include anyone who has or does receive a service from Rutland County Council. Examples of service users include but are not limited to children, young people, people with disabilities, people experiencing mental ill health and older people. The word carer is used to include anyone who has a caring role for another person. Examples of carers include, but are not limited to parents, sons, daughters, young people /children other family members, neighbours and friends.

Employees are required to comply with the 'Professional Boundaries Guidance and Procedures' and not enter into inappropriate relationships nor conduct the services of the Council in an inappropriate or unprofessional manner. Any breaches of the guidance may be considered misconduct under the Disciplinary procedure.

## **13.0 Treatment of Information**

- 13.1 Employees must not disclose information given to them in confidence by anyone, or information acquired which they believe is of a confidential nature, without the consent of a person authorised to give it, or unless required by law to do so. Employees should not prevent another person from gaining access to information to which that person is entitled by law.
- 13.2 Employees must not misuse their position by requesting or gaining information unnecessary to carrying out their work nor to make personal gain or benefit.
- 13.3 Line Managers may give an employer's reference on behalf of the Council for a member of staff or an ex-member of staff, unless otherwise informed. We owe a legal duty of care to ensure the reference is based on fact. Where an agreement has been reached with an ex-employee regarding the issuing of an agreed reference, this should be referred to Human Resources.
- 13.4 Employees should be familiar with and conform to Data Protection, Freedom of Information and Health and Safety legislation. These regulate and provide a framework for processing information relating to individuals which includes holding, using or disclosing information. It covers manual filing systems and records as well as computerised systems, card indexes and microfiche.

## **14.0 Appointment of staff**

- 14.1 Employees must not be involved in the appointment or any other decision relating to the discipline, promotion, pay or conditions of another employee, or prospective employee, who is a relative or friend.

*In this context, 'relative' means a spouse, partner, parent-in-law, son, daughter, step-son, step-daughter, child or a partner, brother, sister, grandparent, grandchild,*

*uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons.*

*In this context, 'partner' means a member of a couple who live together.*

- 14.2 Decisions to appoint are made on the basis of merit. It would be unlawful to make an appointment based on anything other than the ability of the candidate to undertake the duties of the post.
- 14.3 The Council has a detailed process for the appointment of staff that must be followed by all employees involved in the recruitment process.
- 14.4 Every candidate for an appointment shall, when making an application, disclose in writing to the Chief Executive whether to their knowledge he/she is related to any member of the Council or to a holder of any senior office within the Council. Deliberate omission to make such a disclosure will disqualify the candidate and if the omission is discovered after appointment, may lead to dismissal.

## **15.0 Gifts, Hospitality and Sponsorship**

- 15.1 Employees should avoid being in a position where they might be deemed by others to have been influenced in making a decision in respect of his/her employment as a consequence of accepting a gift or hospitality.
- 15.2 Whenever there is any doubt as to whether gifts or hospitality should be accepted, the offer should be declined or advice sought from their line manager, Strategic Director, or Chief Executive for advice.
- 15.3 It is an offence for employees to accept any gift or consideration as an inducement or reward for doing or forbearing to do anything in their official capacity or showing favour or disfavour to any person in their official capacity.
- 15.4 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the guidelines and framework regarding gifts and hospitality will also apply.
- 15.5 Where the authority wishes to sponsor an event or service, neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being a full disclosure to the Strategic Director for Law and Governance. Similarly, where the authority through sponsorship grant aid, financial or other means gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.
- 15.6 Employees and Managers should refer to the Guidance on Gifts, Hospitality and Sponsorship.

## **16.0 Alcohol and Drugs**

- 16.1 All employees will be expected to attend work without being under the influence of alcohol or drugs or have their work performance adversely impacted by alcohol or drugs. Any associated inappropriate behaviour or conduct may be considered misconduct within the Disciplinary Policy.

- 16.2 Where involvement with illegal drugs, or excessive use of alcohol by an employee takes place outside of working hours, the Council will consider the impact this may have on their employment, including consideration of any implications for the Council's reputation or public confidence
- 16.3 Employees and Managers should refer to the Guidance on Alcohol and Drugs.

## **17.0 Health and Safety**

- 17.1 In the interests of the public and colleagues, employees must adhere to the Council's Health and Safety policies. These are available on the Intranet/Shared Drive.
- 17.2 Employees must not act either wilfully or unintentionally in a manner liable to place the public, their colleagues or themselves at risk and must adhere to the duty of care prescribed in the Council's Health and Safety policies.
- 17.3 The Council as employer, and their employees are subject to duties under the Health and Safety at Work Act 1974.

## **18.0 Standards of Dress and Appearance**

- 18.1 Employees must ensure that their standard of dress, the type and style of clothes and personal ornamentation worn, are appropriate to the nature of the duties and responsibilities undertaken. Inappropriate dress can create the view that the Council is inefficient, create offence or be interpreted as disrespectful by the public. Employees should seek further advice from their Manager if they require clarity regarding appropriate or inappropriate dress.
- 18.2 The Council will be respectful of ethnic and religious dress requirements.
- 18.3 Employees will be expected to conform to requirements for clothing which may apply for health and safety reasons or where a specific uniform is required and issued to them.
- 18.4 ID/Name badges, where provided, will be worn at all times unless agreed with their line manager for specific situations when it is appropriate that it is not worn. Employees should also show their current ID pass as appropriate, e.g. when carrying out a home visit.

## 19.0 Officers' Register of Interests Protocol

# OFFICERS' REGISTER OF INTERESTS PROTOCOL

Version Number	Version 2.0
Guardian	Strategic Director for Law and Governance
Date Produced	31 <sup>st</sup> May 2023
Next Review Date	31 <sup>st</sup> May 2024

### Guidance Note – Officers' Register of Interests

This Protocol applies to all employees of Rutland County Council and provides a clear framework in which Officers should operate in the event that they need to declare the following interests:

- Financial interest
- Non-financial interest
- Other commitment, which may conflict with the Council's interests
- Registration of Membership

The Council's Code of Conduct sets out the Council's policy on the registration of officers' interests and this provides supplementary advice and information to employees and Line Managers and provides a framework and practice in respect of registering officers' interests and supports the Council's commitment to openness and transparency. Employment contracts for all Council employees require individuals to adhere to the Council's Employee Code of Conduct. All employees are required to sign to the effect they are aware of this and agree to work in accordance with the Employee Code of Conduct.



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Appendix E – Officers’ Register of Interests Flowchart

Appendix F – Quarterly Review of Officers’ Register of Interests

# OFFICERS' REGISTER OF INTERESTS PROTOCOL

## 1.1. Protocol Statement

Rutland County Council supports transparency and openness in the way the Council does business, in the public interest. In addition to the mandatory requirement for Members to declare their interests, it is also a requirement under the Council's Code of Conduct for all employees (Officers) to declare any financial or non-financial interests which could conflict with the Council's interests at the point the conflict of interest becomes apparent. All employees are subject to the Employee Code of Conduct at Part 5 of the Rutland County Council District Constitution.

The Strategic Director for Law and Governance is to hold a central register of officers' interests, in the format at Appendix A, which should include a record of:

all financial and non-financial interests,

memberships as detailed below,

all bankruptcy notifications

All financial and non-financial interests are to be reported on the Officer Register of Interests Form at Appendix B. These forms are to be submitted on first reporting the interest and then annually on 1 April each year while the interest is extant.

Membership of, or activity on behalf of, a recognised trade union or professional society does not constitute such an interest. The Council encourages employees to take an active part in the life of the community. However, employees should declare to their Director, membership of any organisation, lodge, chapter, society, trust or regular gathering or meeting which is not open to members of the public who are not members of that lodge, chapter, society or trust or requires secrecy about its rules, membership or conduct.

The purpose of this provision is to prevent any conflicts of loyalty/interest arising. **Officers should never subordinate their duty to their private interests or put themselves in a position where duty and private interests conflict**, this includes membership of any such organisation where in a specific instance, such membership constitutes (or could be perceived as) a conflict of interest. Officers should note that interests or memberships held by family and friends should also be reported if the officer believes that they may cause a conflict of interest. All memberships that constitute (or could be perceived as constituting) conflict of interest are to be reported on the Officer Register of Memberships Form at Appendix C as soon as they arise and any change should be reported within 28 days. These forms are to be submitted on first reporting the membership and then annually on 1 April each year the officer will be forwarded a form, Appendix D, to confirm the interest/membership is remains extant.

Officers' Register of Interests/Membership forms are to be reviewed by the officer's line manager who is to provide written commentary in the form as to whether or not there is a perceived conflict of interest. The form, along with the line manager's comments are to be passed to the relevant director to make an informed decision as to whether or not the interest will create a material conflict either with the regular duties of the officer or with any particular project. The Director should also ensure that any relevant Councillors are made aware of the interest if required. Approval of an annual renewal may be given by email. When approving any interest/membership the Director should make specific comment as to what, if any safeguards/provisions might be necessary to avoid any conflict with an

officer's primary council duties. The full process is shown graphically at Appendix E. If a Director feels that the interest will create a material conflict either with the regular duties of the officer or with any particular project, then they should sign but not approve the request and pass to the Strategic Director for Law and Governance for further guidance. **When a Director is unsure as to whether an interest will constitute a conflict of interest, they should seek guidance from the Strategic Director for Law and Governance on the matter.**

If the interest/membership is deemed to constitute a conflict of interest the relevant Director, in consultation with the Strategic Director for Law and Governance, will need to decide whether the officer will be able to continue in their current role, or be removed from a particular project because of the interest. If the interest is so conflicting that it is incompatible with their primary role then specific advice would be required from the Strategic Director for Law and Governance and potentially from the Head of HR if an officer's continuation in role was deemed to be unsustainable. Any perceived conflict is to include a narrative recommendation on appropriate action to be taken).

Each Director is responsible for forwarding completed Officer Register of Interest/Membership forms to the Strategic Director for Law and Governance for entry into the central register of interests which will be held and monitored by the elections Manager.

The Register Custodian is to prepare the register for the Strategic Director for Law and Governance to review on a quarterly basis starting on 1 April each year. The Strategic Director is to certify each quarter that they have fully checked the register using the signature sheet at Appendix F.

Bankruptcy. Employees must advise the Strategic Director for Resources if they are declared bankrupt or are involved as a Director of a company which is wound up or put into voluntary liquidation if it may impact upon the employee's role and duties. Such information will be treated in the strictest confidence and is also to be forwarded to Strategic Director for Law and Governance for inclusion on the central register of interests.

In addition to the circumstances outlined above, during tender processes (valued over £50,000 per annum), officers will be required to complete an Evaluator Conflict of Interest Declaration Form in accordance with rule 3 of the Rutland County Council Contract Procedure Rules (CPRs) to confirm whether or not they hold any interests or memberships that may conflict with the tender process that they are involved with, in advance of the tender closing date. The Evaluator Conflict of Interest Declaration Form is available to download from the procurement intranet site. This completed form must be submitted to the relevant chair of the Evaluation Panel or the Responsible Officer for the tender, and a copy of the form passed to the Monitoring Officer to be held with the central register of officers' interests.

It is the responsibility of each person to ensure that the information that they have provided remains up to date.

Declaration of gifts and hospitality is covered in separate guidance.

## 1.2. Purpose

This Protocol sets out the procedure to be followed by all Rutland County Council Officers if they have a relevant interest to declare. The flow charts at Appendices F and G graphically show the guidance above.

**1.3. Scope**

This Protocol applies to all officers employed by Rutland County Council.

**1.4. Legal Context**

The Local Government Act 1972 makes provision for the disclosure by officers of interest in contracts.

*(1) If it comes to the knowledge of an officer employed, whether under this Act or any other enactment, by a local authority that a contract in which he has any pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party), has been, or is proposed to be, entered into by the authority or any committee thereof, he shall as soon as practicable give notice in writing to the authority of the fact that he is interested therein.*

*(2) An officer of a local authority shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration.<sup>1</sup>*

**2.0 Monitoring and Review**

This Protocol shall be reviewed annually on 1 April after implementation.

**2.1 Implementation**

This Protocol was implemented on 1<sup>st</sup> July 2020.

**3.0 Contacts**

Strategic Director for Law and Governance (Monitoring Officer)	01572 758154
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<sup>1</sup> LGA 1972 Section 117

# EXAMPLE

## Central Officers' Register of Interests

### Interests page

Ser No	Surname	Other Names	Department	Directorate	Signed by Director of:	Approved	Not approved	Summary of Interest	Dated	Comments	Annual Renewal Due on
1	Gordon	Johns	HR	Resources	Resources	Approved		Wife owns building company employed by council	12-Jul-19	Noted and Planning Committees notified – no conflict as individual not involved in tender processes.	01-Apr-20
2	Bill	Smith	ASC	People	People	Approved		Officer is a Director of Children's Charity operating in area	03-Aug-19	Approved no conflict with duties.	01-Apr-20

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### Memberships page

Ser No	Surname	Other Names	Department	Directorate	Signed by Director of:	Approved	Not approved	Summary of Membership	Dated approved	Comments	Annual Renewal Due on
1	Mick	Jones	HR	Resources	Resources	Approved		Lions Club	12-Jul-19	Aware, and approved, no conflict with duties	01-Apr-20
2	John	Fleming	ASC	People	People	Approved		RAFA	03-Aug-19	Aware, and approved, no conflict with duties	01-Apr-20

**Contract evaluators page**

Ser No	Surname	Other Names	Department	Directorate	Signed by Director of:	Approved	Not approved	Summary of interest/conflict	Dated	Comments	Annual Renewal Due on
1	Fred	Johnstone	Planning	Places	Places		Not approved	Shares in travel business similar to that bidding for contract.	12-Jul-19	Not approved – Not to be involved with contract as this would be a conflict	01-Apr-20

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## **OFFICERS' REGISTER OF INTERESTS FORM**

Rutland County Council supports transparency and openness in the way it conducts business. In addition to the mandatory requirement for Members to declare their interests, it is also a requirement under the Council's Code of Conduct for Officers to declare any financial or non-financial interests which could conflict with the Council's interests.

Please complete the form below and pass to your Line Manager:

Officer's Name:	
Department & Directorate:	
Full detail of Interest and potential conflict:	
Comments by Line Manager (should provide an indication as to whether or not there is a genuine conflict of interest with the officer's duties and whether or not that conflict can be mitigated):	
On completion, this form is to be passed to the Officer's director for action.	
Signed:	
Name of Line Manager:	

Dated:	
<b>DECISION OF DIRECTOR</b>	
*delete as applicable	*Approved – the interest above does not constitute a conflict with the Council’s interests/or can be managed (to include recommendation on appropriate action to be taken)
	*Not approved – this interest constitutes a conflict of interest with those of the Council’s for the following reasons :  Reasons for non-approval (to include recommendation on appropriate action to be taken): (attached separately if required)
Details of Councillors to be informed:	
Signed:	
Name of Director:	
Dated:	
<b>ENTRY IN OFFICERS’ REGISTER OF INTERESTS</b>	
Entered in Officers’ Register of Interests on:	
Date:	
By:	



## **OFFICERS' REGISTER OF MEMBERSHIPS FORM**

Rutland County Council supports transparency and openness in the way it conducts business. In addition to the mandatory requirement for Members to declare their interests, it is also a requirement under the Council's Code of Conduct for Officers to declare any membership of an organisation that could conflict with the Council's interests.

Please complete the form below and return it to your Director:

Officer's Name:	
Department & Directorate:	
Full detail of Membership(s) and potential conflict:	
Comments by Line Manager (should provide an indication as to whether or not there is a genuine conflict of interest with the officer's duties and whether or not that conflict can be mitigated):	
On completion, this form is to be passed to the Officer's director for action.	
Signed:	
Name of Line Manager:	
Dated:	

<b>DECISION OF DIRECTOR</b>	
*delete as applicable	*Approved – the interest above does not constitute a conflict with the Council’s interests/or can be managed (to include recommendation on appropriate action to be taken)
	*Not approved – this interest constitutes a conflict of interest with those of the Council’s for the following reasons :  Reasons for non-approval (to include recommendation on appropriate action to be taken): (attached separately if required)
Details of Councillors to be informed:	
Signed:	
Name of Director:	
Dated:	
<b>ENTRY IN OFFICERS’ REGISTER OF INTERESTS</b>	
Entered in Officers’ Register of Interests on:	
Date:	
By:	

## OFFICERS' REGISTER OF INTERESTS/MEMBERSHIPS ANNUAL RENEWAL FORM

You have previously registered an interest/membership in the Rutland County Council Officers' Register of Interests and in accordance with the Council's Protocol I am required to confirm each year that you still wish to maintain your interest/membership on the Register.

The interest/membership I have registered for you is:

Please confirm below if you wish to retain this interest/membership on the Register for the FY xx/xx and return the slip to Strategic Director for Law and Governance.

Name:  
Strategic Director for Law and Governance

----- o O o -----

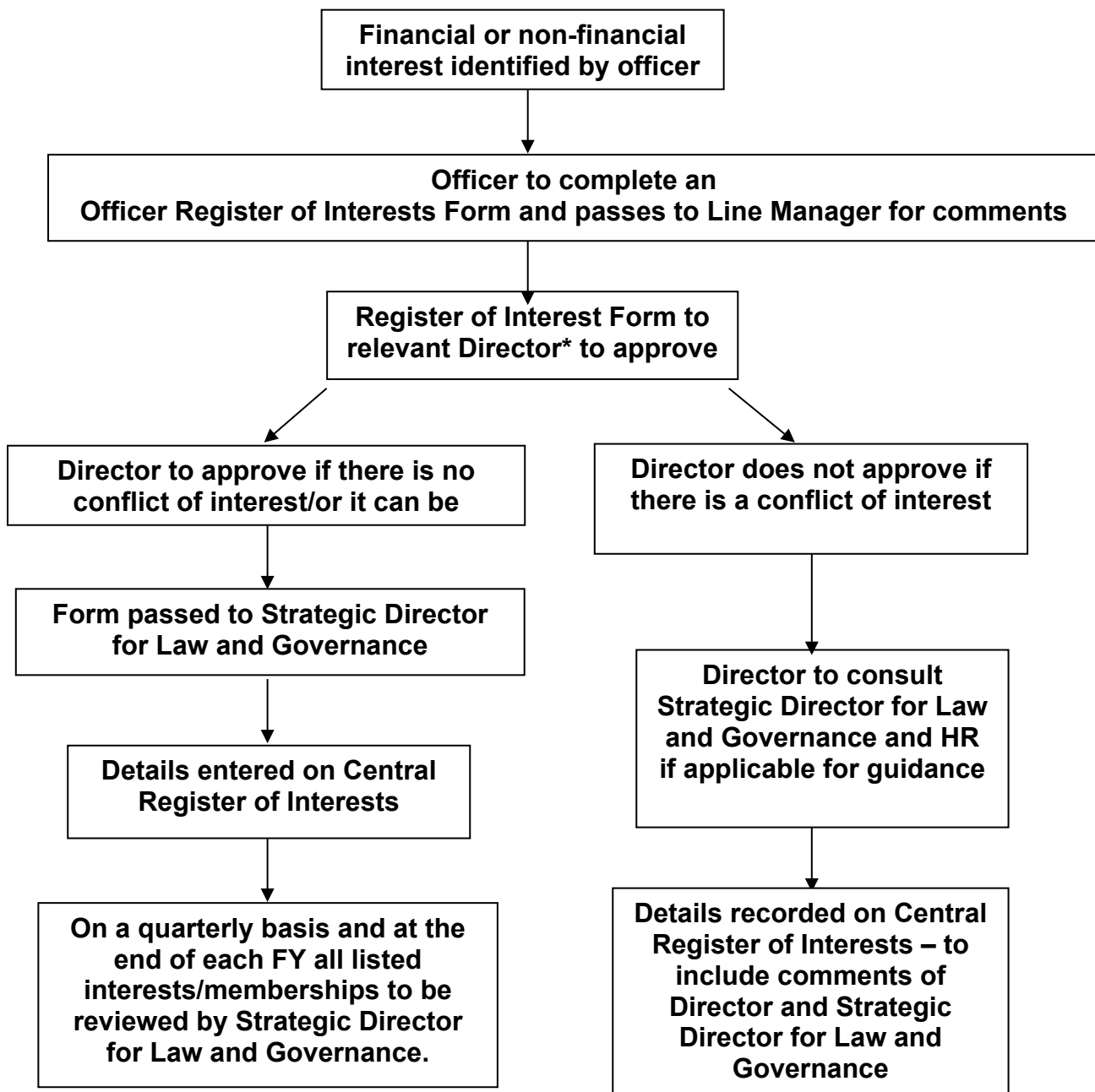
To: Strategic Director for Law and Governance

### Officers' Register of Interests – Annual Renewal Confirmation

*delete as applicable	I certify that I "wish / "do not wish my interest/membership** to remain on the Rutland County Council Officers' Register of Interest for the FY xx/xx
Officer's Name:	
Department & Directorate:	
Dated:	
Name of Director:	
*delete as applicable	*Approved / *Not approved
Signature of Director	

\*\* If more than one interest/membership if registered please annotate which ones this return covers.

## OFFICERS' REGISTER OF INTERESTS PROTOCOL FLOW CHART



\*Where officer is a Director, Form to be submitted to CEO. Where officer is CEO, Form to be submitted to Monitoring Officer

## QUARTERLY REVIEW OF OFFICERS' REGISTER OF INTERESTS FORM

1. I hereby confirm that I have today, reviewed the Central Officers' Register of Interests.
2. \*\*I can confirm that all interests have been correctly registered and that all entries are current.

\*\*I have reviewed the register and have the following observations:

Signed:	
Name:	
Dated:	
Strategic Director for Law and Governance	

\*\*delete as applicable

**A large print version of this document is available on request.**



**Rutland**  
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# RUTLAND COUNTY COUNCIL DISTRICT COUNCIL CONSTITUTION

## PART 5 - CODES AND PROTOCOLS

### PROTOCOL FOR MEMBER AND OFFICER RELATIONS

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#### **1. Purpose**

1.1 This Protocol provides guidance on how members and officers should work together effectively to deliver positive outcomes for Rutland's residents, businesses, and communities. It seeks to apply the seven principles of public life (the "Nolan Principles") into practice.

1.2 The Protocol provides guidance on best practice and how to meet the standards of public life, including complying with the [Members' Code of Conduct](#) and the [Officers' Code of Conduct](#).

#### **2. Overview of Member & Officer Relations**

2.1 All members and officers are public servants with complementary but distinct roles and responsibilities. All members and officers work to achieve the common aim of delivering services and policies that improve the lives of Rutland's residents, workforce, and businesses. All will benefit from effective working relationships between members and officers.

2.2 This Protocol aims to create an understanding of:

- The distinct roles of members and officers.
- The boundaries between members and officers; and
- The expectations both members and officers can have of each other.

3.3 Understanding these areas will allow both members and officers to conduct themselves at or above this standard of behaviour and avoid dispute. The Protocol also addresses how to deal with disputes appropriately.

3.4 This Protocol is a practical document to guide behaviour. Members and officers should contact the Strategic Director for Law & Governance if they require specific advice.

#### 4. Member and Officer Roles

4.1 The following is a guide to the main differences between the roles and responsibilities of members and officers.

<b>Members</b>	<b>Officers</b>
<b>Status</b>	
Elected by residents every 4 years. Can resign but can be disqualified only in limited circumstances. Between 2 and 9 members appointed by the Leader to form the Cabinet.	Employed by the Council under a contract of employment on a permanent or fixed term contract. Can resign or be dismissed and have employment rights.
No formal management – may be subject to political group and party discipline and accountable to the electorate and constituents	Managed by officers; led by the Chief Executive.
Subject to the Members’ Code of Conduct and duty to declare interests and political group discipline.	Legal rights under employment law and the Council’s policies and procedures. Subject to the employee code of conduct
<b>Roles</b>	
Strategic decision makers – Council sets the budget and policy framework; Cabinet carries out the functions of the local authority not the responsibility of any other part of the authority.	Advise and deliver services to implement the priorities agreed by members. Provide professional advice to ensure best value, financial and legal compliance.
Have oversight of operational performance by officers – but cannot manage services or instruct officers	Responsible for the operational delivery of services and accountable to members for effective performance.
Regulatory and Governance decision makers – In committees determine regulatory matters and have oversight of finance, governance, and risk. Cannot make decisions as individual councillors	Responsible for regulatory enforcement of individual decisions and policy implementation reporting to the Chief Executive



Political representative. Often but not always a member of a political group.	Must remain politically neutral. Some senior and communications roles are politically restricted meaning post holders cannot be politically active.
Community leader of the whole of their ward raising issues and advancing its interests. Cannot instruct officers to act or allocate funds.	Delivery of services to communities including consultation with ward members and responding to queries.

## 5. Statutory officers

5.1 Some officers have a personal statutory responsibility to ensure the proper conduct of the council's administrative, staffing, legal and financial affairs. When those officers give advice acting in their statutory capacity, members must have regard to that advice. This means that Members have an obligation to follow the advice unless there is a compelling reason not to.

These officers can be found in the [Corporate Leadership Team Structure Chart at Part 7 of the Constitution](#), with further details of their responsibilities in the [Scheme of Delegation at Part 3](#).

In addition, there are statutory Proper Officer roles held by Directors and other officers. These are also to be found at Part 3 of the Council's Constitution.

## 6. Personal Conduct and Behaviour

6.1 The underlying principle for member-officer relations is mutual respect for each other's roles but especially where differences of opinion and approach arise. This includes having mutual understanding of the different pressures on members and officers.

### This means, for example:

- Valuing each other's different expertise and knowledge, e.g., members may know their wards better than officers, but officers have professional expertise.
- Avoiding a blame culture
- Avoiding tone and language that is critical and/or disrespectful of individual officers or members.
- Be aware of behaviour that could constitute bullying or harassment and that the Council has a zero-tolerance approach to these.
- Members understanding that officers, especially junior officers, cannot respond to a member's criticisms or disagreements, especially in public.
- Avoiding unreasonable deadlines or excessive demands on each other
- Public perception - the public expect high standards and expect members and officers to be courteous to each other.
- Not copying others into correspondence with officers.

## **7. Political Neutrality**

7.1 One of the biggest differences between officers and members is their political involvement. Whilst it is often the case that members are elected as a party-political party candidate; officers must remain politically neutral in all aspects of their work.

### **For members, for example:**

- Do not ask officers about their political views or discuss political matters with officers.
- Do not try to draw officers into criticising a member or political group.
- Respect officers' obligation to advise different political groups equally.
- Do not make allegations of bias against officers, especially in public.
- Do not make unsubstantiated allegations that officers have ulterior or malign motives. The Council and officers must make difficult decisions with finite resources and often these can mean that some residents or members are dissatisfied. It is unacceptable to make unsubstantiated allegations against officers of corruption, political bias, or incompetence in these circumstances. Any concern regarding these matters should first be raised with the Strategic Director for Law & Governance on a confidential basis.

### **For officers, for example:**

- You must provide balanced advice and equal facilities to political groups as required by this Protocol.
- You must provide advice and support to the Council's political administration and to deliver its policies but not to the political party that forms the administration.
- Do not bring your personal politics into your work. And if you are in a politically restricted post be aware of your additional responsibilities.
- Do not be improperly influenced by members to change your mind on any issue that affects a political matter, or advise based on political expediency.

If either members or officers wish to raise issues or seek advice on these matters they should do so by contacting the Strategic Director for Law and Governance.

## **8. Support to Political Groups**

8.1 One of a member's roles is as a political representative. Officers can provide support to members in their political role so long as it does not breach the officer's duty of political neutrality.

8.2 Officers are required to advise and implement the political policies of the administration and provide additional support to the Leader and Cabinet. It is a feature of a successful council that the executive and senior management have close and effective working relationships.

8.3 It is an officer's duty to act in the Council's interests. This means advising where political commitments are not in the Council's overall interests or will not deliver best value. If matters cannot be resolved, they should be referred to the Council's Chief Executive who will consult with the relevant statutory officers.

8.4 The additional support to the administration should not extend to or be confused with support to any political group.

8.5 The use of Council resources (for example equipment, offices, and some officer support) for party political purposes is not permitted. If a Member is unclear of the scope of this restriction they should contact the Strategic Director for Law and Governance for advice.

8.6 Political groups are an informal part of the Council's political architecture. They have no decision-making role and exist to allow those with the same political party background or similar views (for independent members) to join to ensure representation on Council committees and other bodies. In successful councils, there are good and professional working relationships and interaction between political groups of all hues and officers.

8.7 It is important that political groups are treated fairly and with equity but also that they are not seen as part of the formal decision-making structures.

#### **For officers, for example**

- Ensure your Director or the Chief Executive is aware of a briefing and approves it.
- Provide equal opportunity of access to briefings and advice on the same matter to all groups.
- Withdraw from meetings when political matters are discussed.
- Be open and transparent about briefings without disclosing confidential group discussions.
- Avoid briefings which could be used in a forthcoming election campaign.

#### **For members and groups, for example**

- Direct requests for briefings to the Chief Executive or Director.
- Accept that any briefing will be offered to all political groups and do not try to prevent this.
- Do not ask officers about political matters or implications.
- Accept that officers will feedback comments made in a group meeting to senior officers (but not other political groups without consent).
- Where information is provided on a confidential basis, maintain that confidentiality.

### **9. Members' ward work**

9.1 Members carry out vital work as community leaders in their ward. They are often the only voice for residents. Officers must respect this and provide members with support in their ward work but there are limits to the support that can be provided.

9.2 Individual members cannot by law make decisions on behalf of the council or instruct officers in their work.

**For members:**

- You can expect officers to respond to enquiries within the Council's agreed standards.
- You can expect to be informed and consulted on ward matters in accordance with the Council's policy.
- Do not instruct an officer to do something – and if you do try to instruct an officer, do not be offended if they decline to follow that instruction.
- You can expect to receive reasons why a request or query cannot be met.
- If you do receive a response with reasons, do not criticise the officer.
- You may ask for a query to be escalated but you must accept a final decision when made, ultimately this may be by the Chief Executive.
- You should Inform officers if a meeting includes non-councillors so they can decide whether it is appropriate for them to attend and/or disclose confidential information.
- It is acknowledged that responses to member queries submitted through, 'Member Queries' are usually on behalf of residents and will be shared. Nevertheless, third parties should not be copied into correspondence between a Member and the Member Queries email address (this includes parties external to the Council and other Officers of the Council).
- Any other communications between members and officers are private unless the officer's consent to share is explicit or has been obtained, and therefore third parties should not be copied into this private correspondence.

**For officers:**

- Treat all member queries equally.
- Meet the Council's standards for response times and explain when you cannot.
- Provide reasons for your responses, especially if a member's request can't be met and, where you can, suggest other options.
- Escalate matters if a member is unhappy with your response.

**10. Personal Relationships & Privacy**

It is beneficial for the Council if members and officers can interact effectively, but professional standards must be maintained, especially if members of the public or other stakeholders are present, for example:

- Officers using formal titles "Chair" and "Councillor" in formal or public settings.
- Likewise, Members using officers' title and surname or job titles when addressing them in a public forum.
- Care should be taken by members and officers when socialising with each other. It is not unlawful, but the public perception of such relationships may be negative.

- Declaring any close or intimate relationships between members and officers (e.g., family, partner) to the Strategic Director of Law and Governance and taking required steps to avoid any conflicts of interest under either of the codes of conduct. Personal information will be held confidentially.
- Respect each other's private lives and work-life balance when making requests or in communications.

## **11. The Employment of Officers**

11.1 Officers are employed by the Council and are accountable to the Chief Executive. Consequently, the Chief Executive has overall responsibility for the operational delivery of services and the management of officers' performance and conduct.

### **For example:**

- Members, including the Leader and Cabinet, cannot direct the work of individual officers or manage services.
- Below senior management level, members cannot be involved in any formal action taken against individual officers except as a witness of fact.
- Officers must not ask members to support them in any employment dispute with the Council, except if they are a witness of fact.
- Members must not "lobby" on behalf of individual officers if they are subject to formal action or applying for a post.

## **12. Members' Rights of Access to Information & Confidentiality**

12.1 Members have rights of access to council held information and this can vary with their roles and responsibilities, see the Appendix. Disclosure of information to a member does not, however, mean that the information can be made public or shared with a third party.

### **Summary:**

- Officers must respect members' rights of access to information.
- Members must respect confidentiality, where information is specifically disclosed on this basis and take advice from the Strategic Director of Law and Governance if they have any concerns.
- Personal information should always be treated as confidential unless advised otherwise.
- Members' rights are additional to any general rights of access to information, e.g., under the Freedom of Information Act 2000.

## **13. Dispute Resolution**

13.1 This Protocol's purpose is to avoid dispute through guidance, but it is accepted that this is not always possible. The Council's managers will deal with poor performance or conduct by officers in accordance with its policies and procedures. Complaints against members can be made under the Code of Conduct. In either case,

the Council look to resolve matters amicably, but a formal process exists if this is not possible or appropriate.

### **Members – complaints about officers**

- First, seek to resolve the matter informally with the officer’s Director.
- Avoid public or personal criticism of officers.
- Avoid “copying in” people to complaints about officers.
- Ensure allegations against officers are substantiated.
- Members should be mindful of the imbalance of power in the relationship between themselves and a junior officer. Do not use undue influence to resolve a matter in your favour or to put pressure on an officer.
- If informal resolution is not possible, you can make a formal complaint to the relevant Head of Service or Director.
- Respect that the decision whether action is taken is a matter for management and must follow the Council’s policies and procedures. You do not have a right to be involved in any disciplinary process save as set out in this Protocol.
- Members may provide evidence of fact in any complaint or disciplinary process.

### **Officers – complaints about members**

- Junior officers are not expected to resolve a complaint about a member without support and/or advice from their managers.
- If a matter cannot be resolved informally, officers may make a complaint under the Member’s Code of Conduct or a grievance in accordance with the Council’s internal Grievance Policy.
- Officers are entitled to seek advice and representation from their trade union.
- Seek advice from the Strategic Director for Law & Governance.

## **14. Reporting Wrongdoing**

If members or officers believe there is evidence of corruption, fraud, or another abuse of office, they should report it to the Strategic Director for Law & Governance or may use the Council’s internally available Whistleblowing Policy.

A Member may consider it appropriate to report evidence of a crime directly to the Police.

## **15. Further Information**

Further information about Members rights of access to information and how they handle that information can be found in the Access to Information Procedure Rules [at Part 4 of the Constitution](#).



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# RUTLAND COUNTY COUNCIL DISTRICT COUNCIL CONSTITUTION

## PART 5 - CODES AND PROTOCOLS

### MEMBERS PLANNING CODE OF GOOD PRACTICE

#### Background

The Members' Planning Code of Good Practice was originally prepared in response to a series of successful court challenges concerning themselves with local planning authorities and the Members' conduct or conflicts of interests. It replaced what was a number of individual and sometimes haphazard approaches in individual councils at the time.

The drafting of the model code was subject to consultation and comment from a number of local authorities through the machinery of the Association of Council Secretaries and Solicitors (now LLG), the Local Government Association, the Local Government Ombudsman, Audit Commission and from firms of solicitors or counsel acting on their behalf.

This update takes into account the update to the Seven Principles of Public Life (the 'Nolan principles') and commentary from the Committee on standards in public life, the changes in the approach to codes of conduct and also to predetermination introduced by the Localism Act 2011 and the guide on 'Openness and transparency on personal interests' published by the Department for Communities and Local Government 2013.

For further reading please refer to 'Probity in Planning' issued by the Local Government Association.

#### Introduction

**The aim of this Code:** to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

One of the key purposes of the planning system is to regulate the development and use of land in the public interest. **Your role as a Member of the Planning Authority is** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.

**When the Code applies:** this code applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

**If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.**

### **1) Relationship to the Members' Code of Conduct**

- **Do** apply the rules in the Members' Code of Conduct first, which must always be complied with. This is both the rules on interest, Disclosable Pecuniary Interests (DPIs) and any other interests identified by your Authority, and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- **Do** then apply the rules in this Members' Planning Code, which seek to explain and supplement the Members' Code of Conduct and the law on decision making for the purposes of planning control. If you do not abide by this Members' Planning Code, you may put:
  - The Council at risk of proceedings on the legality of the related decision or maladministration; and
  - Yourself at risk of being named in a report made to the Council or, if the failure is also likely to be a breach of the interest provisions of Localism Act 2011, a complaint being made to the police to consider criminal proceedings.

### **2) Development Proposals and Personal Interests**

- **Do** disclose the existence and nature of your interest as required by your Authority's Member Code of Conduct.
- **Do take into account when approaching a decision** that the Principle of Integrity is defined in terms that

*"Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships**".*

It is therefore advisable that you:

- **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.

- **Do** note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that your role as a councillor may place additional limitations on you in representing the proposal in which you have a personal interest.
- **Do** notify the Monitoring Officer in writing where it is clear to you that you have a disclosable pecuniary interest or other personal conflict of interest and note that:
  - You should send the notification no later than submission of that application where you can;
  - The proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers;
  - You must not get involved in the processing of the application; and
  - It is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at Committee.

### 3) **Fettering Discretion in the Planning Process**

(natural justice, predisposition and predetermination)

- **Don't** fetter your discretion by approaching the decision with a closed mind.
- **Do** be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011.
- **Do** keep at the front of your mind that, when you come to make the decision, you
  - Are entitled to have and to have expressed your own views on the matter, provided you are prepared to reconsider your position in the light of all the evidence and arguments;
  - Must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice as well as the arguments from all sides;
  - Are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a Member, in giving fair consideration to points raised;
  - Are only entitled to take account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
  - Are to come to a decision after giving what you feel is the right weight to those material considerations.

- **Do** be aware that you can be biased where the Council is the landowner, developer or applicant if you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a district/borough and county councillor), provided:
  - The proposal does not substantially effect the well being or financial standing of the consultee body;
  - You make it clear to the consultee body that:
    - Your views are expressed on the limited information before you only;
    - You must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
    - You will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee.
  -
- **Do** explain that you do not intend to speak and vote as a member of the Committee because you will be perceived as having judged (or you reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes. (*Use the disclosure form provided for disclosing interests.*)
- **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member (***where this is granted by the authority's standing orders or by the consent from the Chair and Committee***) where you have represented your views or those of local electors and fettered your discretion, but do not have a disclosable or other personal conflict of interest. Where you do:
  - Advise the proper officer or Chair that you wish to speak in this capacity before commencement of the item;
  - Remove yourself from the seating area for members of the Committee for the duration of that item; and
  - Ensure that your actions are recorded.

#### **4) Contact with Applicants, Developers and Objectors**

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should seek to arrange that meeting

yourself through a request to the [Development Control Manager] to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

- **Do** otherwise:
  - Follow the Authority's rules on lobbying;
  - Consider whether or not it would be prudent in the circumstances to make notes when contacted; and
  - Report to the [Development Control Manager] any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file [a profoma has been supplied to you for this purpose].

**In addition in respect of presentations by applicants/developers:**

- **Don't** attend a planning presentation without requesting an officer to be present.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.
- **Do** be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a committee.

**5) Lobbying of Councillors**

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to make any sort of promise to vote one way or another or such a firm point of view that it amounts to the same thing.
- **Do** remember that your overriding duty is to the whole community not just to the people in your Ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible, including its addition to your register of interests where relevant.
- **Do** copy or pass on any lobbying correspondence you receive to the Development Control Manager at the earliest opportunity.
- **Do** promptly refer to the [Development Control Manager] any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- **Do** note that, unless you have a disclosable or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code through:
  - Listening or receiving viewpoints from residents or other interested parties;
  - Making comments to residents, interested parties, other Members or appropriate officers (making clear that you must keep an open mind when it comes to making the decision);
  - Seeking information through appropriate channels; or
  - Being a vehicle for the expression of opinion of others in your role as a Ward Member

## 6) Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is your intention to openly campaign on the matter and will therefore step away from the Committee when it comes to make its decision.
- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals (such as the Victorian Society, CPRE, Ramblers Association or a local civic society), but you should normally seek to disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal.
- **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken

- **Don't** decide or discuss how to vote on any application at any political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

## 7) Site Visits/Inspections

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
  - Particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
  - There are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the Committee
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
  - You feel it is essential for you to visit the site other than through attending the official site visit,
  - You have first spoken to the Development Control Manager about your intention to do so and why (which will be recorded on the file) and
  - You can ensure you will comply with these good practice rules on site visits.

## 8) Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme

for public speaking or through the Chair, as this may give the appearance of bias.

- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

## 9) Officers

- **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the [Development Control Manager], which may be incorporated into any committee report).
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

## 10) Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your planning reasons are recorded and repeated in the report to the Committee.
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.



- **Do** have recorded the reasons for Committee's decision to defer any proposal [and that this is in accordance with the Council's protocol on deferrals].
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

## 11) Training

- **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- **Do** participate in the annual review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.

## 12) Guidance

- **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member where you have represented your views or those of local electors and fettered your discretion, but do not have a disclosable or other personal conflict of interest. Where you do:
  - Advise the Council's legal advisor or Chair that you wish to speak in this capacity before commencement of the item;
  - Remove yourself from the seating area for members of the Committee for the duration of that item; and
  - Ensure that your actions are recorded.
- **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should seek to arrange that meeting yourself through a request to the Development Control Manager or other development control officer to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

## **Explanatory Note 1**

Section 3 is probably the most important part of the Code in terms of ensuring that a sound decision can be made and legally defended.

It is explained more fully in the Local Government Association previous and replacement 2013 publication "Probity in planning for councillors and officers". In this document it describes the situation concerning 'Predisposition, Pre-determination, or Bias' in the following way

*"Members of a planning committee, Local Plan steering group (or full Council when the local plan is being considered) need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application or on planning policies."*

And goes on to advise:

***"If a councillor has predetermined their position, they should withdraw from being a member of the decision-making body for that matter. This would apply to any member of the planning committee who wanted to speak for or against a proposal, as a campaigner (for example on a proposal within their ward)."***

A member of Planning & Licencing Committee may present the views and opinions of other parties, including the views of constituents, the parish council/meeting or their local community provided that they make it clear that they are providing the views of others and that they remain with an open mind and remain open to persuasion in light of all the information presented at the meeting. A councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they may take in relation to any particular matter; however, a councillor must be mindful that he/she will be judged against the objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the councillor was biased, and clarify their position accordingly.

If a councillor is predetermined i.e. they have made up his/her mind, they should withdraw from their role as a member of the committee responsible for the decision, but then may exercise their right to speak as a ward member, and then withdraw to the public gallery.

For an application, a ward member who is not a member of the committee, will be called by the Chairman, make their comments and then move from the seating area for members of the committee.

## **Explanatory Note 2**

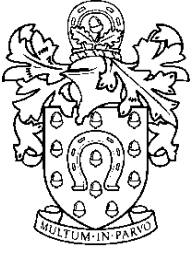
A formal meeting is more than a mere presentation. It is an arranged business meeting that would be expected, at its inception, to include a dialogue, exchange of ideas and negotiation of elements of acceptability.

Of all of these factors, the key determining one is that of attempted negotiation. A developer presentation to your parish council meeting would not be included in this definition, for example, but a pre-arranged discussion to follow that up with you as Ward Member would.

All meetings with those subject to enforcement, however, should be included in this category. Discussion of this issue with anyone subject to enforcement, where you could be seen as a representative of the Council, should be avoided.

As ever, if you are in any doubt about any of these issues, please get advice from the Monitoring Officer.

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**RUTLAND COUNTY COUNCIL  
PLANNING AND LICENSING COMMITTEE MEETINGS  
PUBLIC SPEAKING SCHEME**

The scheme gives the opportunity for a member of the public and other parties identified below to speak to the Council's elected Councillors when they are deciding a planning application.

**TO WHICH MEETINGS DOES THIS SCHEME APPLY?**

This scheme applies to all meetings of the Planning and Licensing Committee and to meetings of Full Council when a planning application is considered. Planning and Licensing Committee meetings are normally held in the Council Chamber at the Council Offices, Catmose, Oakham, beginning at 7.00 pm.

**WHO CAN ADDRESS THE COMMITTEE**

1. One member of the public who wishes to comment on or to speak for the application;
2. One member of the public who wishes to comment on or to speak against the application;
3. One Parish (or Town) Council or Parish Meeting representative. Where an application affects multiple Parishes, the Chair may allow additional Parish representatives to speak.
4. All Rutland County Councillors for the ward where the development is situated ("Ward Member") where the Ward Member is not a Member of the Committee.
5. The applicant, their agent or representative.

A Parish Councillor or Ward Member with a disclosable pecuniary interest in the matter may only attend for the purpose of speaking as a member of the public or as the applicant and must not speak in their capacity as a Councillor, and must then leave the meeting as soon as they have spoken.

No speaker (with the exception of ward members) may speak for more than 3 minutes and related applications are treated as one for these purposes. Each Ward Member may speak for up to 5 minutes. Ward Members may then remain in their designated seat during the debate and contribute to the meeting again at the discretion of the Chair.

Speakers may be questioned at the meeting by Members of the Committee at the discretion of the Chair, but any public speaker may not question other speakers, Councillors or Officers. Speakers are not permitted to introduce any photograph, drawing or written material as part of their public speaking.

Public speaking on any matter is only allowed at one meeting. There will be no further

public speaking at any second or subsequent meeting unless officers advise that there has been a significant change in planning circumstances since the first meeting.

### **HOW CAN I FIND OUT WHEN A MATTER WILL BE CONSIDERED?**

In addition to the publication of Agendas with written reports, the dates and times of the Planning Committee meetings are shown on the Council's [website](#). It should be noted that some applications may be withdrawn at short notice and others may be deferred because of new information or for procedural reasons. This may mean that deferral takes place during the meeting and you will not be able to speak at that point, but will be able to do so at the meeting when the application is reconsidered.

### **DO I HAVE TO ATTEND THE PLANNING AND LICENSING COMMITTEE MEETING TO MAKE THE COMMITTEE AWARE OF MY VIEWS?**

No. If you have made written representations, their substance will be taken into account and the Committee report, which is available to all Councillors, will contain a summary of the representations received.

### **HOW DO I ARRANGE TO SPEAK AT THE MEETING?**

You can:-

Telephone the Democratic Services Team (01572 720972 / 01572 720993) during normal working hours on any weekday after the reports and agenda have been published,

**OR**

Send an email to [democraticservices@rutland.gov.uk](mailto:democraticservices@rutland.gov.uk) after the reports and agenda have been published,

**OR**

On the day of the Planning Committee meeting, you can arrive in the Council Chamber at least 15 minutes before the beginning of the meeting (meetings normally begin at 7.00pm) and speak to the Committee Clerk.

If more than one person wants to speak who is eligible under a particular category (e.g. a member of the public within the description set out in numbered paragraph 1 and 2 above), the right to speak will be on a “first come, first served” basis in the first instance. Multiple speakers in the same category may share the allocated time subject to prior agreement from the person presiding at the meeting.

### **WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?**

- Planning Officer will present the report.
- Public speaking takes place in the order set out above under the heading “Who Can Speak?”
- Members of the Committee can ask questions of any public speaker;
- Committee Members will debate the merits of the application and once a motion

has been moved and seconded proceed to a vote. Ward Members may contribute to the meeting again during the debate at the discretion of the Chair.

## **WHAT SHOULD I SAY AT THE MEETING?**

Please be straightforward and concise and try to keep your comments to planning matters which are directly relevant to the application or matter concerned. Planning matters may include things such as planning policy, previous decisions of the Council on the same site or in similar circumstances, design, appearance, layout, effects on amenity, overlooking, loss of light, overshadowing, loss of privacy, noise or smell nuisance, impact on trees, listed buildings or highway safety.

The following are not relevant planning matters, namely the effect of the development on property values, loss of view, personality or motive of the applicant, covenants, private rights or easements and boundary or access disputes.

You may wish to come to the meeting with a written statement of exactly what you want to say or read out, having checked beforehand that it will not overrun the 3 minutes allowed.

**The Planning and Licensing Committee takes place in public so please be courteous and polite as you would at any similar public place. Any remarks should relate to the subject matter only and should not constitute a personal attack upon any person or contain any offensive language or aggressive gestures.**

**Use of inappropriate, offensive or aggressive language and/or behaviour will not be tolerated. Should unacceptable behaviour persist, the person presiding reserves the right to order that the speaker leave the meeting.**

## **WHO DO I CONTACT FOR MORE INFORMATION?**

The Council's website will help you and you can also contact the relevant planning officer for the matter. The name of the Officer is on the acknowledgement of the application or in the correspondence we have sent you.

Rutland County Council,  
Council Offices, Catmose, Oakham, Rutland LE15  
6HP  
Web: [www.rutland.gov.uk](http://www.rutland.gov.uk)

### **For Planning matters**

Tel: 01572 758400  
Email: [planning@rutland.gov.uk](mailto:planning@rutland.gov.uk)

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### **For Speaking or other Committee matters:**

Tel: 01572 720972 / 01572 720993  
Email: [democraticservices@rutland.gov.uk](mailto:democraticservices@rutland.gov.uk)

It always helps to save time if you can quote the planning application reference number.

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# RUTLAND COUNTY COUNCIL DISTRICT COUNCIL CONSTITUTION

## PART 5 – CODES AND PROTOCOLS

### PETITIONS GUIDANCE

#### 1. What is a petition?

A petition is a formal written request, typically one signed by many people, appealing to an organisation, such as the Council or public service, in respect of a particular cause, concern, or issue.

#### 2. Thinking of starting a petition?

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. The Council will address and respond to petitions about matters over which it exercises some control or influence.

It might be helpful if you contact the Council to discuss your petition before starting to collect signatories.

Email: [democraticservices@rutland.gov.uk](mailto:democraticservices@rutland.gov.uk)  
Tel: 01572 720993

#### 3. Who can create and sign a petition?

Anyone who lives, works or studies in Rutland can create or sign a petition about a local issue and submit it to the council.

Petition signatories should be over 18, though there may be exceptional circumstances, where a separate, supplementary petition from those under 18 will be accepted in support of the substantive petition.

#### 4. What are the guidelines for the format and submission of a petition?

- Petitions submitted to the Council must include:
  - i. A clear and concise statement covering the subject of the petition. It should state what action the petitioner wishes the Council to take and include any request that the petition be considered at a Committee, Scrutiny Committee or Full Council Meeting.
  - ii. This statement should be printed on each page so it is clear that every signatory has assented to their inclusion and is fully aware of what they are supporting.
  - iii. The name, address, postal code and signature of each person supporting the petition; a minimum of 50 signatures of people who live, work or study in the Rutland area.
  - iv. The contact details address and name of the lead petitioner, who must live,

work or study in the Rutland area. This is the person we will contact to explain how we handle the petition. In the absence of a clear contact point, we will contact signatories to the petition to agree who should act as the petition organiser.

- Petitions should be submitted to the Democratic Services Manager at:

Email: [democraticservices@rutland.gov.uk](mailto:democraticservices@rutland.gov.uk)

Tel: 01572 720993

Democratic Services Team  
Rutland County Council  
Catmose  
Oakham  
Rutland  
LE15 6HP

- If you would like to present your petition to a Committee, Scrutiny or Full Council meeting, or would like your councillor or someone else to present it on your behalf, please contact the Democratic Services Team (Contact details above) **as soon as possible before the meeting** and they will talk you through the process.
- If you want to submit a petition to a specific meeting of the Council, or any Scrutiny or Committee meeting you must give notice in writing to the Democratic Services Team providing details of the subject matter and number of signatures by no later than midday pm on the tenth working day before that meeting (e.g. for a meeting on a Monday, by midday on the second preceding Monday). The person submitting the petition must also indicate who will present the petition to the meeting.
- There are a wide range of issues that can be addressed by petitions, as such the Strategic Director for Law and Governance will identify the most appropriate way of dealing with the petition having regards to all relevant factors. See Section 6 “How Will the Council Respond to Petitions” below.

## 5. What will happen to my Petition?

All petitions sent or presented to the Council will receive an acknowledgement from the Council sent to the petition organiser no later than 10 days after receipt of the petition (Where notice has been given to submit the petition to a particular meeting, the acknowledgement will be sent in advance of the deadline for submission of petitions to that meeting (See above).

This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

If your petition does not reach the minimum requirement of 50 signatures, particularly where the issue relates to a small locality, we will seek to advise you of other ways in

which your views could be considered. It will also be passed to the relevant service area.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. We will explain the reasons for this in our acknowledgement of the petition.

In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.

If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a council debate, then the acknowledgement will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply. Further information on all these procedures and how you can express your views is available from the Democratic Services Team.

We reserve the right to verify signatures as required. Please ensure you include a valid address and postcode that relates to your home address (if you live or study in Rutland) or work address (if you work or run a business in Rutland). These details will be taken into account when identifying if there are enough signatories from people who live, work or study in Rutland to trigger a full Council debate.

To ensure that people know what we are doing in response to the petitions we receive the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate.

### **How will the Council respond to petitions?**

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

- Taking the action requested in the petition
- Considering the petition at a council meeting
- Holding an inquiry into the matter
- Undertaking research into the matter
- Holding a public meeting
- Holding a consultation
- Holding a meeting with petitioners
- Calling a referendum
- Writing to the petition organiser setting out our views about the request in the petition.

If your petition is about something over which the Council has no direct control (for example the local railway or hospital) the Council may, with the consent of the lead petitioner, forward it to the most relevant body.

## **6. Full Council debates**

If a petition contains more than 1500 signatures from people who live, work or study in Rutland, it will be debated by the full Council. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend.

The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible (for example due to the need to verify signatures) and consideration will then take place at the following meeting. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of 15 minutes. Members may wish to ask the petition organiser questions as part of this time limit. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee or sub-committee.

Where the issue is one on which the Council's Executive (Cabinet) are required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

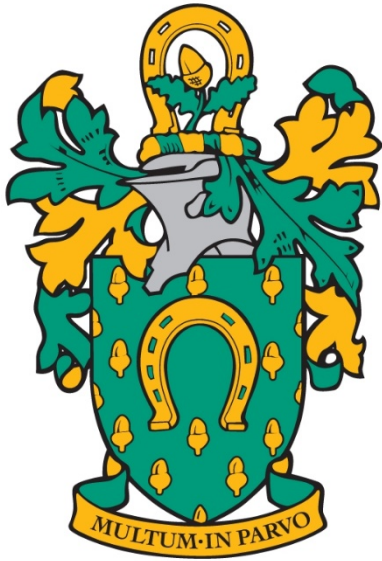
## **7. E-petitions**

The Council welcomes e-petitions. E-petitions must follow the same guidelines as paper petitions. They can be emailed to [democraticservices@rutland.gov.uk](mailto:democraticservices@rutland.gov.uk) The petition organiser will need to provide us with their name, postal address and email address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for six months, but you can choose a shorter or longer timeframe, up to a maximum of 12 months.

## **8. What can I do if I feel my petition has not been dealt with properly?**

If you feel that we have not dealt with your petition properly, the petition organiser should follow the [Rutland County Council Complaints Procedure](#).

**This guidance should be read in conjunction with Procedure Rules for the relevant Council meeting contained within the [RCC Constitution](#)**



# Rutland County Council

## PART 6 OF THE CONSTITUTION MEMBER'S SCHEME OF ALLOWANCES 2023/24

## MEMBERS' SCHEME OF ALLOWANCES

### 1. INTRODUCTION

- a) The payment of allowances to Councillors is governed by various Acts of Parliament and Regulations. There is a key distinction to note, as follows.
- b) Sections 99-100 of the Local Government Act 2000, and The Local Authorities (Members' Allowances) (England) Regulations 2001, contain provisions about the following allowances:
  - a 'basic allowance' to all Councillors;
  - a 'special responsibility allowance' (SRA) to some Councillors who, in the Council's opinion, make a significant additional contribution to the Council's work;
  - a child and dependent carer's allowance (optional);
- c) The Local Government Act 1972 (and subsequent amendments and regulations) provide for payments to cover expenses incurred by:
  - the Chairman, while carrying out his/her duties in office (section 3(5) of the Act); and
  - the Vice-Chairman, also for expenses incurred in office (section 5(4) of the Act).
- d) From May 2001, the 2001 Regulations made it necessary for councils to set up an independent panel to advise the Council about its levels of basic and special allowance, whether it should pay a carer's allowance. The Council determines its own allowances scheme, but must have regard to this independent panel's recommendations.
- e) The panel does not have a statutory role in commenting upon the expenses payments listed above as being made in accordance with the Local Government Act 1972, but the Council may voluntarily ask the panel to advise it about them.
- f) This document deals with allowances first, then expenses payments and levels of equipment provided to Councillors for their council business.

## 2. STATUTORY MEMBERS ALLOWANCES SCHEME

### 2.1 BASIC ALLOWANCE

- a) Every Councillor shall be paid an annual allowance of £5,117.04 It will be paid in instalments of one-twelfth on the last Thursday of each month, with minor adjustments where necessary to ensure that the total annual sum is correct. The allowance is subject to annual updating - see paragraph 2.7 below.
- b) The basic sum covers the time incurred by a Councillor in carrying out their ordinary duties for the Council. However, it excludes telephone calls and travel and subsistence allowances for approved duties, which are referred to separately below. Furthermore, the Council makes available to Councillors a certain amount of equipment over and above the basic allowance. Again, this is referred to separately below.
- c) The Council does not pay an allowance to co-opted members, only expenses (see para 3.1).

### 2.2 SPECIAL RESPONSIBILITY ALLOWANCES

An annual special responsibility allowance (SRA) will be paid to certain Councillors. As a Councillor may only receive one SRA, any fulfilling more than one special role shall choose at the start of the municipal year which SRA to claim. SRAs will be paid in monthly instalments. They are not payable when a Councillor temporarily steps into another's role (say, when the vice-chairman chairs a meeting). The Council may award a temporary Special Responsibility Allowance to another councillor in exceptional circumstances.

Table of special responsibility allowances	Annual sum (£)	Factor of Basic Allowance
Leader of the Council	17,909.64	3.5
Deputy Leader	15,351.12	3.0
Cabinet Members	12,792.60	2.5
Leader of the Opposition Groups	1,000 split proportionally	N/A
Chairman of Scrutiny Committees	7,675.56	1.5
Chairman Planning and Licensing Committee	10,234.08	2.0
Chairman of Audit and Risk Committee	6396.3	1.25
Chairman of Employment and Appeals Committee	131 per meeting	N/A
Chairman of Conduct Committee	131 per meeting	N/A
Chairman of the Council	5,117.04	1
Independent Person	500	N/A

## 2.3 CHILD AND DEPENDENT CARER'S ALLOWANCE

- a) Councillors may claim reimbursement of actual, reasonable costs incurred in using childminders, babysitters or other sitters for dependants while carrying out approved duties up to a maximum of £2,000 per annum. Approved duties are listed in a separate section below. Claims should be made monthly in arrears, by attaching the receipt(s) to the submitted members' claim form and entering the amount claimed on the form.
- b) Information about registered childminders is available from the Council's Family Information Service. Details of care services for elderly and disabled dependants are best obtained from independent agencies.

## 2.4 RENUNCIATION OF ALLOWANCES

- a) A Councillor may choose to forego all or part of their entitlement to basic or special responsibility allowances under this scheme. If this is the case, they should give notice of this in writing to the Democratic Services Manager stating what element of their allowance entitlement they do not wish to claim. The notice should also state whether this is for the current municipal year or the remainder of the Councillor's term of office – if the notice does not specify a time period then it will be assumed to mean the remainder of the term of office.
- b) A member not wishing to claim the expenses described in section 3 below need not give notice in writing – they simply do not submit any expenses claims.

## 2.5 PUBLICISING ALLOWANCES AND EXPENSES PAID

- a) The Council, as required by law, publishes any recommendations which its Members Allowances Panel makes about members' allowances, and also the conclusions which the Council reaches as a result of those recommendations.
- b) Each year it advertises in a local newspaper the total sum paid during that year to each Councillor in respect of basic allowance, SRAs and childcare/dependent carers allowance.
- c) The Strategic Director of Resources maintains a file of payments to members – see section 5 below.



## 2.6 SUSPENSION OF ALLOWANCES

Any member who is suspended or partially suspended from their responsibilities or duties as a member of the Council in accordance with Part III of the Local Government Act 2000 may have their allowances withheld for the period of any suspension.

## 2.7 ANNUAL UPDATING

The basic allowance is updated annually in line with pay awards made to Chief Officers as part of the Joint Negotiating Committee (JNC).

## 3. PAYMENT OF EXPENSES

### 3.1 APPROVED DUTIES

- a) Councillors and co-opted members may claim reimbursement of travel, subsistence and conference expenses incurred whilst undertaking an approved duty. Attendance at any of the following is an approved duty:
- any Council meeting
  - any meeting of one of the Council's committees, sub-committees, regulatory or staff panels, working parties/groups or fora.
  - any meeting of the Cabinet or a Cabinet committee
  - agenda planning meetings for the Council, Committees, Cabinet, Scrutiny Committees.
  - any meeting of the Scrutiny Commission
  - attendance at development control site visits.
  - Meetings with Officers to discuss Council or ward matters with the Member acting in their official capacity.
  - formal inspection of Council properties and projects as authorised in advance by the Executive or a committee (including site visits for planning matters)
  - in-house training and development seminars including Members' Induction, Staff Induction and service-specific seminars
  - External training in accordance with the Member Development Strategy.
  - approved conferences or seminars such as described at section 3.3 below

- a meeting of an external organisation, including partnership bodies, to which the Councillor has been appointed as the Council's representative – for details see the list of approved appointments issued annually near the start of the municipal year, and maintained subsequently, by the Democratic Services Team (if the external organisation will pay travel and/or subsistence costs, then the Councillor should claim against that organisation and cannot claim from the Council).
  - Other meetings and duties may be considered on a case-by-case basis where there an ultimate benefit to the Council of attendance.
- b) Expenses will not be paid for attendance at national and regional bodies if the Councillor was not appointed to the organisation or event by the Council.
- c) Travel and subsistence allowances for co-opted and lay/expert members of committees and panels will be paid, at the same level as for elected members.

### 3.2 TRAVELLING EXPENSES

- a) A Councillor may reclaim expenses incurred in travelling to and from approved duties, as shown in the table below.
- b) For journeys outside Rutland, where public transport is readily available the ordinary fare will be reimbursed if this is less than a sum based upon car mileage.
- c) The Council will pay reasonable travel costs to and from an approved duty when a Councillor is absent from their usual residence, such as when working out of the area or when attending a residential course elsewhere. This does not cover return from holidays. If such a claim is made and an officer is unclear whether or not the expense should be reimbursed, they shall consult the member and the political group leader (if appropriate) prior to approving payment. Any unresolved claim is the responsibility of Council to determine.
- d) The rates are linked to those payable to officers.

<b>Travel option</b>	<b>Details of travel expenses reclaimable</b>
By public transport	The ordinary fare may be claimed, supported by a receipt. For travel by rail, wherever possible the tickets should be ordered in advance through the Business Support Team.  The Council will refund the purchase of a rail card provided that this saves the Council money in reimbursing travel expenses.
By car	The car mileage rate is set annually by Council, taking into account national legal maxima. It applies irrespective of engine size or distance travelled, and is currently 45pence per mile for

	<p>the first 10,000 miles and 25pence per mile thereafter in line with HMRC mileage rates. An extra 5pence per mile per passenger can be claimed for carrying two to four passengers who would otherwise be able to claim travelling expenses from the Council.</p> <p>The Council will pay, upon production of a receipt, associated actual and reasonable costs incurred on parking fees and tolls.</p>
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<b>Travel option</b>	<b>Details of travel expenses reclaimable</b>
By taxi	<p>Regulations under the Local Government Act 1972 restrict Councillors' use of taxis to "cases of urgency or where no public transport is reasonably available" – they allow for the actual fare and "a reasonable gratuity" to be reimbursed. Therefore, if there was no urgency, or public transport was available, any claim for taxi costs will instead be reimbursed by payment of the bus fare for the equivalent journey.</p> <p>Councillors with no personal transport or access to reasonable public transport may ask the Democratic Services Team to book a taxi for them for a local approved duty.</p>

### 3.3 SUBSISTENCE EXPENSES AND COUNCIL REFRESHMENTS

- a) A Councillor may claim reimbursement of subsistence costs incurred personally while on approved duties. The latter are described at a separate section below. In order to qualify for reimbursement:
- the Councillor must be away from their usual residence for a minimum of four hours (this time period applying only to the time spent in travel to and from, and attendance at, the approved duty)
  - there must be no meal provided at the approved duty, either by the Council or any other organiser for the event
  - the Councillor should attach a receipt to their expenses claim form to show that a meal was purchased (and the amount paid will be the amount incurred and shown on the receipt up to the maximum limit shown below).
- b) The rates payable are set annually and mirror those set by HMRC. They are currently as set out in the table below. They are linked to the corresponding rates that are agreed nationally each year for officers.

<b>Subsistence type</b>	<b>Details</b>	<b>Payment amount</b>
Breakfast	The rate may be paid where an employee leaves home earlier than usual and before 6am and incurs a cost on breakfast taken	£5.00

	away from home after the qualifying journey has started. If an employee usually leaves before 6am the breakfast rate does not apply.	
One Meal (5 Hour Rate)	The rate may be paid where the employee has been undertaking qualifying travel for a period of at least 5 hours and has incurred the cost of a meal.	£5.00
Two Meal (10 Hour Rate)	The rate may be paid where the employee has been undertaking qualifying travel for a period of at least 10 hours and has incurred the cost of a meal or meals.	£10.00
Absence overnight	To cover hotel and associated expenses – but note that, in these cases, the Council will book and pay for hotel accommodation directly (see ‘conferences’ at separate section below)	Market rates will be paid (see d below)

- c) If a meal is taken on a train, this is taken to relate to the subsistence allowance which it most closely equates to (i.e. lunch or evening). The above conditions still apply.
- d) The Council will pay a market rate for hotels for overnight absence when Councillors are on an approved duty. The market rate may be different according to location and available capacity. Councillors can ask the Democratic Services Team to book hotels directly or may book their own. If Councillors book their own accommodation then the cost will need to be reclaimed.
- e) The Council will not pay for bar bills or other drinks, meal costs above the subsistence maxima, telephone calls or any other incidentals purchased by the Councillor during their overnight stay (such as newspapers or laundry).
- f) Officers making overnight stay bookings should first check with the Democratic Services Manager that the proposed activity constitutes an approved duty and has been authorised properly. They should make clear whether the cost is to be borne by the service department’s conference budget, or whether the central Members’ Allowances budget is expected to fund it. When giving the Councillor the details of the reservation, they should remind them that they must pay for any incidental charges and not add them to the hotel bill. After the event, the officer must send a copy of the hotel bill (annotated to show the receiving Councillors) to the Democratic Services Team so that the file of payments to members can be updated.

### 3.3 CONFERENCE AND SEMINAR EXPENSES

- a) Attendance at conferences and seminars is approved by the relevant Director in consultation with the Leader of the Council taking into account the benefit to the Council that would be derived from, and the appropriate level of, member attendance. It should only be approved where the relevant service has adequate provision for this in their budget for conference attendance, ensuring that this takes account of all anticipated fees and expenses involved. The budget holder's prior approval must thus be obtained. Typical conferences include:
- Local Government Association – Chief Executive and relevant member(s)
  - CIPFA conference
  - Institute of Rating and Valuation conference
  - Institute of Housing conference
  - Local Government Association housing conference, tourism conference, etc
  - Town & Country Planning Association weekend and summer schools for Councillors
  - Annual social services conference.
- b) The Council will book and pay for conference and seminar expenses directly, as described in relation to overnight stays in section 3.3 above. If there is no overnight stay, then any travel or subsistence claims must comply with the usual conditions for approved duty attendance and be submitted in the usual way on the monthly expenses claim form.

### 3.5 EXPENSES FOR TRAVEL AND SUBSISTENCE ABROAD

Occasionally a Councillor may be invited to travel abroad on official business, through their membership of an external organisation to which the Council has appointed them as its representative. Given the potentially sensitive nature of such travel, in the public perception, prior Council consent should always be obtained to the classification of the proposed activity as an approved duty eligible for the reimbursement of the associated expenses. If such approval is given, then the conditions described in the sections above apply as for any other approved duty.

### 3.6 CHILD AND DEPENDENT CARER'S ALLOWANCE

Councillors may claim reimbursement of costs incurred in using childminders, babysitters or other sitters for dependants while carrying out approved duties. See section 2.3 above for details.

### 3.7 ICT AND OTHER EQUIPMENT

- a) The Council does not pay for the installation of a telephone at a Councillor's residence, if there is not one already installed nor does it contribute towards the cost of the line rental. The Council will reimburse the cost of telephone calls made by the Councillor whilst carrying out their official duties provided an itemised telephone bill is submitted with the Councillors monthly claim form with these calls clearly identified.
- b) The Council will provide each Councillor with a Council e-mail address for their official duties.
- c) The Council will provide support and servicing of ICT equipment it has provided and provide support to Councillors who access Council systems with their own ICT equipment. The Council will provide paper and replacement cartridges in all cases for use by Councillors in their official capacity.
- d) No other office or other equipment is currently provided to members as standard either directly or by reimbursement of costs.

### 3.8 CLAIMS PROCEDURE (FOR TRAVEL, SUBSISTENCE AND CONFERENCE EXPENSES)

- a) Claims for travel, subsistence and dependent carers' allowances must be made each month. All claims must be received by the Democratic Services Team by the 5<sup>th</sup> day of the following month. This is essential as they must be verified and approved and passed to the Payroll Section in time for them to be processed for the monthly payroll run. Any claims received after these dates will be paid the following month.
- b) Councillors must ensure that they submit claims within three months as claims stretching back further than this may be delayed due to the increased difficulty of verifying them. Furthermore, very large back-claims may render the payment subject to tax and national insurance payment. Claims spanning more than one financial year must be avoided, as this would result in the later year's budget being overspent. Therefore, all claims for travel, subsistence, carers' and dependent allowances for each financial year must be made by the end of April and will not be paid after that date.
- c) The claim form must include receipts for all expenses claimed, include a VAT receipt for fuel purchased, and must be signed by the Councillor to declare that they are entitled to all amounts claimed and have not already been reimbursed for these amounts by the Council or any other organisation.
- d) If a Councillor wishes to reclaim tax paid on subsistence allowances, they must provide relevant receipts to HM Inspector of Taxes. If a Councillor applies for benefit, they must declare any allowances and expenses received from the Council on their application form.

- e) Should it ever arise that the Council incurs expenditure on behalf of a Councillor's spouse or partner, then a debtor's account will be sent to the Councillor to recover all additional costs and a copy of the accounts will be placed with the file of payments to members.

#### **4. THE CHAIRMAN'S ALLOWANCES**

- a) Sections 3(5) and 5(4) of the Local Government Act 1972 provide for the Council to pay the Chairman and Vice-Chairman an allowance each, which it believes reasonable to enable them to meet the expenses of their office. The Council may, but is not obliged to, invite its independent Members' Allowances Panel to comment on the allowances paid.
- b) The current allowances are:
- Chairman - £5,117.04 which is paid by monthly instalment with the office holders' other allowances. A further allowance is available to cover expenses whilst engaged on official civic engagements.
  - Vice-Chairman – No Allowance payable. Expenses incurred whilst representing the Chairman on official civic duties may be paid for by the allowance for civic engagements that is managed by the Democratic Services Team.

#### **5. GUIDANCE FOR OFFICERS IN RESPECT OF PAYMENT TO MEMBERS**

- a) All Officers must adhere to the above scheme when verifying and making payments to Councillors. The Democratic Services Manager, or those employees acting on his/her behalf, must verify all member claims prior to passing them for payment. A file of payments to members will be maintained by the Accountancy Section. For all payments under the members' allowances scheme, and those made under sections 173 to 176 of the Local Government Act 1972, this must show the name of the recipient, together with the amount and nature of each payment. It is open for inspection free of charge by electors in the area, who may copy any part of it.
- b) The scheme also applies to officers incurring expenditure on a Councillor's behalf – if an officer spends more than the prescribed limits shown above for a member's travel and/or subsistence then they cannot claim the excess but must bear the cost personally. If an officer wishes to make a claim for member travel and/or subsistence, they must complete an employee travel and subsistence expenses claim form in the usual way but stating clearly which member(s) were paid for, and the details of the payment (cost, time of day incurred) which will allow it to be checked against the prescribed subsistence scheme. A copy must be sent immediately to the Accountancy Section, for recording in the file of payments to members.
- c) This does not prevent the payment of sums to Councillors which they may legitimately claim in a personal capacity (such as a rent allowance, refund

of overpaid council tax or rent, a home renovation grant, for a business transaction, damages or compensation). Any payments of this type should be processed in the normal way for that service issue, rather than through the member's payroll arrangements for allowances and expenses.

- d) If any other issue of payment to a Councillor arises, other than one covered by the above members' allowance scheme or a normal service issue, then prior written approval should be obtained from the Chief Executive or Strategic Director for Law and Governance.
- e) When a department arranges any seminar, conference, course or visit which will incur costs on behalf of a Councillor, the lead officer must liaise with the Democratic Services Manager to ensure that only permitted expenditure is incurred. They should keep a list of members attending an approved event and forward it immediately afterwards to the Democratic Services Team to ensure that any subsequent member claims for travelling and/or subsistence can be verified. If the officer pays for any member's travel or meals, then a copy of the officer's own claim form (with clear details of the amounts paid for each member) must be copied immediately to the Democratic Services Team so that the file of members' payments can be updated. Likewise, hotel bills for overnight stays should be annotated to show the receiving Councillor(s) and copied to the Democratic Services Team.
- f) Member tours must have prior Council, Committee or Cabinet approval (except for routine planning site visits), and will normally then be arranged by the relevant officer in either the sponsoring department or Democratic Services Team. Before proposing a tour, officers should check that there is adequate budgetary provision within the central Members' Budget – if not, an alternative budget must be identified.
- g) Tours outside Rutland may be arranged by the relevant service department. They will still require formal Council, Committee or Cabinet approval and adequate budgetary provision. Any overnight stop, unless paid for directly by the Council, and any lunch or evening meals purchased for the Councillors involved must adhere to the subsistence rates shown above. If air tickets are reserved, the cheapest rate of public air travel must always be used.
- h) Any proposed payment or commitment of civic funds must be referred to the Democratic Services Manager for prior approval. This officer must ensure all payments so made remain within budgeted levels of expenditure, and that any payments to or on behalf of members are recorded in the file of payments to members.
- i) Any officer who is responsible for settling an insurance payment to a member from the Council's internal or external insurance funds, should copy details to the Accountancy Section so that the file of payments to members can be updated.
- j) If a Councillor undertakes to act as a volunteer in a Council activity, the relevant lead officer must first make clear that the Councillor intends to act



in their personal capacity as a volunteer and not in an official capacity as Councillor. This is very important in order to ensure that proper account is taken of the strict regulations which govern payment to Councillors for meals and travel. Furthermore, the manager takes full charge of and responsibility for the activities undertaken, regardless of the Councillor's official status.

- k) Circumstances may arise when, due to the need for political neutrality, it would be inappropriate for a Councillor or their relatives to volunteer for a Council activity. One example would be participating in the canvass for the register of electors. For such activities, the lead officer must vet proposing volunteers thoroughly and decline offers where necessary.

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# Chief Executive (Head of Paid Service)

Mark Andrews

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**Strategic  
Director of  
Children and  
Families  
(Director of  
Childrens  
Services)**

Dawn Godfrey

**Strategic  
Director of Adult  
Services and  
Health  
(Director of  
Adult Social  
Services)**

Kim Sorsky

**Strategic  
Director of  
Resources  
(Section 151  
Officer)**

Kirsty Nutton

**Strategic  
Director of Law  
and Governance  
(Monitoring  
Officer)**

Angela Wakefield

**Strategic  
Director of  
Places**

Penny Sharp

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## RUTLAND COUNTY COUNCIL DISTRICT COUNCIL CONSTITUTION

### PART 8 – REGISTER OF MEMBERS OF THE EXECUTIVE (CABINET) AND EXECUTIVE SCHEME OF DELAGATION

Executive Decisions will usually be taken collectively by the Cabinet in accordance with the Cabinet Procedure Rules at Part 4 of the Constitution.

Name	Date Appointed	Portfolio Responsibilities
<a href="#"><u>Cllr Gale Waller</u></a>	22 May 2023	<p><b>Leader of the Council</b></p> <p>Policy and Strategy Partnerships Equality and Diversity</p>
<a href="#"><u>Cllr Andrew Johnson</u></a>	22 May 2023	<p><b>Deputy Leader and Portfolio Holder for Governance and Resources</b></p> <p>Finance Human Resources Revenues and Benefits Audit Digital IT and Customer Services Legal and Democratic Services Corporate Services (inc Performance Management) Commissioning</p>
<a href="#"><u>Cllr Paul Browne</u></a>	22 May 2023	<p><b>Portfolio Holder for Planning, Property and Economic Development</b></p> <p>Development Management Planning Policy Minerals Property Services Economic Development</p>

<p><a href="#"><u>Cllr Diane Ellison</u></a></p>	<p>22 May 2023</p>	<p><b>Portfolio Holder for Adults and Health</b></p> <p>Health Public Health Adult Social Care Community Care Services Prevention and Assurance Homelessness Resettlement</p>
<p><a href="#"><u>Cllr Tim Smith</u></a></p>	<p>18 July 2023</p>	<p><b>Portfolio Holder for Children’s Services</b></p> <p>Children’s Social Care and Family Help SEND, Inclusion and Learning Quality and Practice Improvement</p>
<p><a href="#"><u>Cllr Christine Wise</u></a></p>	<p>22 May 2023</p>	<p><b>Portfolio Holder for Transport, Environment and Communities</b></p> <p>Highways &amp; Transport Community Safety Environment &amp; Climate Change Waste Communities</p>



# Rutland County Council

## PART 9 OF THE CONSTITUTION FINANCIAL PROCEDURE RULES

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## **1. INTRODUCTION AND STATUTORY REQUIREMENTS**

### **General guidance**

- 1.1 Finance Procedure Rules (FPRs) exist to regulate the way in which the Council manages its financial affairs. This is a necessary discipline in any organisation and particularly in the public sector where there are expectations for the proper use and management of public money and where there is legislation which determines the purposes for which the Council can incur expenditure.
- 1.2 Under Section 151 of the 1972 Local Government Act, the Council has a specific statutory responsibility, through the Chief Finance Officer (CFO), for the “.....proper administration of its financial affairs”. At Rutland, the Strategic Director for Resources is the designated CFO.
- 1.3 Essentially these rules set out the framework of responsibilities and requirements across the whole range of the Council’s financial affairs and in doing so their content inevitably covers a range of audiences of Council employees.
- 1.4 All employees, at whatever level in the Council, should be aware of FPRs, and Directors in particular should have a good knowledge of the detail.
- 1.5 The rules cover a number of areas and these are listed in the contents. In the event that circumstances are not covered in these rules, the Chief Finance Officer and Monitoring Officer will advise as to the appropriate course of action.
- 1.6 Within these rules, the term Director is used but includes the Chief Executive and Deputy Directors.
- 1.7 These Finance Procedure Rules must be adhered to at all times. All Directors are accountable to the Chief Finance Officer for compliance with these Rules. The Chief Finance Officer is, in turn, accountable to the Council. All Officers with delegated responsibility for undertaking financial duties are accountable to their Director for compliance with these Rules.
- 1.8 Should a material unauthorised breach of these Rules come to light then it must be reported immediately to the Chief Finance Officer.
- 1.9 These Rules assign responsibilities to Directors and to the Chief Finance Officer, and generally do not assign responsibilities to individual nominated post holders (except, occasionally, where it is helpful to do so). The Chief Finance Officer and Directors may delegate responsibilities assigned to them under these Rules. In particular, the Chief Finance Officer may delegate responsibilities to Finance staff.

## **Statutory requirements**

### Section 114 Local Government Finance Act 1988

- 1.10 Section 114 of the Local Government Finance Act 1988 imposes certain duties on the Chief Finance Officer. The Chief Finance Officer shall make a report under this section if the Authority, Members or officers or a Joint Committee on which the Authority is represented:
- a) has made or is about to make a decision which involves or which would involve the Authority incurring expenditure which is unlawful;
  - b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Authority; or
  - c) is about to enter an item of account, the entry of which is unlawful.
- 1.11 The Chief Finance Officer shall make a report under this section if it appears that the expenditure of the Authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.
- 1.12 In making a report under this section, the Chief Finance Officer shall consult, as far as is practicable, with the Head of Paid Service and the Monitoring Officer.
- 1.13 Where the Chief Finance Officer makes a report under this section it shall be sent to:
- a) the external auditor;
  - b) each member of the Authority.
- 1.14 The Council shall consider the report within 21 days of issue and is prohibited from taking the course of action which is the subject of the report prior to that meeting taking place. The external auditor shall be informed of the date of the meeting and of any decisions made at the meeting.

### Section 5 Local Government and Housing Act 1989

- 1.15 Section 5 of the Local Government and Housing Act 1989 requires every Authority to designate an officer as the Monitoring Officer.
- 1.16 It is the duty of the Monitoring Officer to report to the Council if it appears to him or her that any proposal, decision or omission by the Authority (or by any Committee, Sub-Committee or Officer of the Authority) has given rise to, or is likely to, or would give rise to:

- a) a contravention by the Authority (or a decision making body of the Council, or Member or Officer) of any enactment or rule of law or of any Code of Practice made, or approved by, or under any enactment; or
- b) any such maladministration or injustice as is mentioned in Part III of the Local Government Act 1974.

1.17 Where the Monitoring Officer makes a report under this section it shall be sent to:

- a) the external auditor;
- b) each member of the Authority.

1.18 The Monitoring Officer shall consult with the Head of the Paid Service and the Chief Financial Officer before making such a report.

#### Section 27 Accounts and Audit Regulations 2011

1.19 The Audit and Risk Committee shall receive and consider the external auditor's annual audit letter on the completion of the Council's accounts. It shall be the responsibility of the Audit and Risk Committee to ensure that any audit recommendations in the report are followed up and that the annual audit letter is published.

## **2. FINANCIAL MANAGEMENT**

2.1 The Council is responsible for setting the overall financial framework and approving the financial procedure rules which govern how the Council operates, and appointing an appropriately qualified Chief Finance Officer to oversee the Council's financial administration.

2.2 The Cabinet is responsible for overseeing matters relating to the Council's financial (capital and revenue) resources. The Cabinet's duties include recommending to Council policies on the overall control, monitoring, planning and allocation of its financial resources.

2.3 The Chief Finance Officer as the Council's financial adviser shall:

- a) report to Cabinet and Council on resource availability, generation and allocation, financial policies and keep the Cabinet informed with respect to the Council's finances and financial performance;
- b) advise Cabinet and Council on maintaining adequate levels of reserves;
- c) advise Cabinet and all democratic meetings of the financial implications of proposals submitted to them;

- d) approve all accounting procedures, records and systems of the Council and its officers; and
- e) report the facts immediately to the Cabinet where it appears likely during the year that a material variation in a service's expenditure or income is likely to occur.

2.4 Directors shall be responsible for:

- a) the financial administration of their Directorates, in compliance with these Financial Procedure Rules and ensuring that records and systems are properly maintained;
- b) the monitoring and control of expenditure and income against their capital and revenue budgets;
- c) taking necessary action to avoid exceeding their budget allocation and promptly notifying the Chief Finance Officer of any significant forecast variations.

2.5 Directors shall:

- a) prior to their introduction, agree with the Chief Finance Officer any new financial systems or amendments to existing financial systems;
- b) provide all information required by the Chief Finance Officer and allow the Chief Finance Officer access to all information, records and documents that he requires, before submitting them for approval to elected members;
- c) allow the Chief Finance Officer adequate opportunity to provide written comments for inclusion in any report which has financial implications;
- d) inform the Chief Finance Officer when officers intend to meet representatives of Government Departments or outside bodies on matters which may involve current or future financial or economic proposals and be given the opportunity of being represented or advised of the outcome of the proposals as the Chief Finance Officer considers necessary;
- e) consult the Chief Finance Officer on any matter which is likely to affect the finances or financial systems of the Council before any commitment is incurred or before a report is submitted to Cabinet, Council or to a Scrutiny Committee;
- f) inform the Chief Finance Officer of service developments or amendments to existing services which involve additional expenditure or loss of income and prepare a report for Cabinet approval if applicable.

These reports shall include a statement of the financial implications prepared in conjunction with and approved by the Chief Finance Officer;

- g) be responsible for accountability and the efficient use of all resources within their Directorates.

2.6 Budget Holders shall be responsible for:

- a) monitoring and control of expenditure and income against their capital and revenue budgets and complying with corporate monitoring and reporting timetables;
- b) taking necessary action to avoid exceeding their budget allocation;
- c) authorising/certifying financial transactions relevant to their level of responsibility;
- d) promptly notifying the relevant Director and Chief Finance Officer of any significant forecast variations.

### **3. FINANCIAL SYSTEMS**

#### **Accounting Systems**

- 3.1 The Chief Finance Officer is responsible for the provision of a corporate system for the preparation of the Council's accounts and for monitoring expenditure and income. This is currently provided by means of the Council's Financial System, which is Agresso.
- 3.2 Directors are responsible for ensuring Agresso accurately records the financial transactions of their functions, and for complying with any guidance issued by the Chief Finance Officer.
- 3.3 Directors shall ensure that transactions are recorded in a manner which complies with proper accounting practices, enables returns to be made to taxation authorities, and complies with other legal requirements. The Chief Finance Officer shall give whatever guidance is necessary to ensure that this obligation can be fulfilled.
- 3.4 Directors shall use Agresso as the prime means of monitoring expenditure and income in their services and for comparing spending against budget, except where the Chief Finance Officer advises or agrees that alternative arrangements can apply. Directors shall keep such subsidiary information and records as are necessary to effectively monitor expenditure, income and commitments, and to support returns made to the taxation authorities.
- 3.5 The following principles shall be observed in the allocation of accounting

duties:

- a) The duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them;
- b) Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.
- c) The Chief Finance Officer shall make such recommendations to the Cabinet regarding the accounting system and financial operation of any Directorate as deemed necessary.

### **All Financial Systems**

- 3.5 Directors may not make changes to financial systems without the agreement of the Chief Finance Officer.
- 3.6 Proposals for changes in staffing and organisational arrangements relating to the operation of financial systems (e.g. introduction of a new payment mechanism for supplies) shall also be agreed with the Chief Finance Officer prior to implementation. The Chief Finance Officer may waive these requirements for consultation in circumstances where he or she is satisfied that change will not prejudice the proper administration of the Council's financial affairs.
- 3.7 Each Director shall be responsible for the effective operation of financial systems to the extent that they are operated or controlled within their services and shall ensure proper security and confidentiality including adherence to the requirements of Data Protection and other information legislation.
- 3.8 Each Director shall monitor the effectiveness of financial systems in his or her supported services and shall in particular ensure that financial systems discharge the Chief Finance Officer's duty to ensure that there is proper administration of the Council's financial affairs. Where Directors believe that systems are ineffective, they shall report the matter to the Chief Finance Officer who will report the findings to Cabinet and Audit and Risk at the earliest opportunity.
- 3.9 On an annual basis Directors will be asked to confirm the effective operation of Finance systems in their area in preparation for the completion of the Annual Governance Statement.

## **4. REVENUE BUDGETS**

## Setting a Budget

- 4.1 The Council shall set the Council tax level and approve a budget each year by 11<sup>th</sup> March. The Cabinet will recommend a budget to Council. The recommended budget from Cabinet to Council shall, as a minimum, contain:
- a) the proposed council tax requirement;
  - b) the proposed use of reserves and appropriate level for the General Fund reserve;
  - c) the proposed band D council tax;
  - d) spending plans for directorates including functional budget ceilings within which Directors must work;
  - e) a view of the medium term financial position;
  - f) an analysis of financial risks that might impact on the budget; and
  - g) the results of consultation.

For the purposes of these rules, the budget includes spending plans for each Directorate, functional budget ceilings, corporate financing costs and the resources available by means of General Fund and earmarked reserves.

- 4.2 Directors, in consultation with the Chief Finance Officer and the respective Portfolio holders, shall prepare draft revenue budgets in a format approved by, and to a timetable specified by the Chief Finance Officer.
- 4.3 Budget proposals shall be submitted to Members, accompanied by a report of the Chief Finance Officer. This report shall:
- a) identify proposed developments and any savings;
  - b) report to Cabinet on resource availability, generation and allocation, financial policies and keep the Cabinet informed with respect to the Council's finances and financial performance;
  - c) advise Cabinet and Council on maintaining adequate levels of reserves.
- 4.4 The Chief Finance Officer shall report, for consideration not later than 31<sup>st</sup> December in each year, to the Cabinet on draft budgets for the following financial year to be subject to consultation. After the completion of the consultation period the Chief Finance Officer shall report for consideration by Cabinet not later than 28<sup>th</sup> February in each year on draft budgets for approval by the Council.
- 4.5 The Chief Finance Officer shall ensure that a detailed budget is correctly recorded on Agresso, as soon as practicable after the budget is approved by the Council.

## **Emergency expenditure**

- 4.6 In the case of a 'major incident' as defined in the Emergency Plan, the Chief Finance Officer may determine that alternative arrangements to those in Finance Procedure Rules shall apply. In particular, the Chief Finance Officer in conjunction with the Chief Executive may: (a) establish different rules for financial systems and financial administration to the extent necessary to meet the requirements of the emergency; (b) establish a budget for the emergency, over and above the approved budget; (c) determine which officers may commit the emergency budget, and any rules to apply in managing the budget; (d) authorise any capital expenditure required as a consequence of the emergency.

## **Incurring Expenditure and Virements**

- 4.7 Directors are responsible for working within their Directorate budget and the functional budget ceilings set by Council. Directors are authorised to incur expenditure on services for which there is approved budget provision i.e. there is capacity within their functional budget ceiling. Finance and Contract Procedure Rules must be complied with when expenditure is incurred.
- 4.8 Directors are authorised to vire sums within functional budgets without limit, providing such virement does not give rise to a change of Council policy. This means for example that a stationery budget may be converted to a travel budget within the same function.
- 4.9 Directors are authorised to vire money between any two functional budgets within their directorate budgets to a maximum limit of £25k, provided such virement does not give rise to a change of Council policy or the overall Directorate budget is not overspent as a whole.
- 4.10 The Chief Executive and Chief Finance officer are authorised, at the request of Directors, to vire up to £100k between any two functional budgets (e.g. leisure services to housing services) within a directorate or across directorates provided that the virement does not give rise to a change in Council policy and the overall Directorate budget (or both if it is a transfer) is not overspent as a whole. In approving such transfers, officer will have regard to the overall budget position of the Council. Virements may not be approved if the achievement of under spends in some functions is integral to meeting overspends in other areas.
- 4.11 Virements between functional budgets undertaken by Directors or approved by Chief Executive/ Chief Finance Officer must be reported to Cabinet at the next available quarter.
- 4.12 Where Directors wish to access in-year funding received (this excludes additional revenue income achieved above budget generated from fees and charges) which is not ring fenced, e.g. a grant received after the budget has



been approved for which the Council has some flexibility over its use, then a formal request must be made to Council via Cabinet setting out:

- A. The reason for the request
- B. The amount requested
- C. The implications of the request being refused

4.13 Where the Council receives ring-fenced grant income, other than that identified in the approved budget, an additional budget will be created and Directors be allowed to incur expenditure in line with the conditions of grant. Cabinet or Council approval is not required as the Council has no discretion how funds are used.

4.14 Where Directors wish to increase a functional budget by over £100k OR they anticipate that the overall Directorate budget is likely to be overspent (there is no de-minimis level) they must seek approval in advance from Cabinet or Council for a virement to cover any increase. The request must include:

- A. The reason for the request
- B. The amount requested
- C. The implications of the request being refused
- D. The particular source of funding being requested if applicable
- E. A description of attempts made to identify savings to offset the request for extra funds

4.15 Cabinet can approve virements in any functional budget of up to £250k in any one year to a cumulative value of £500k across all functions. Changes above £500k must be approved by Council on a recommendation from Cabinet. In approving requests, Cabinet or Council may agree the use of earmarked reserves, use the General Fund or make virements between directorates.

4.16 Cabinet or Council will decide whether functional budgets can be increased. Requests may be:

- A. Agreed unconditionally
- B. Agreed with conditions – for example that the overall Directorate must remain underspent or savings must be found elsewhere;
- C. Refused – outright or subject to further work

4.17 At the end of any quarter or earlier if appropriate, Directors may identify (given the Council's statutory requirements to deliver certain services and to respond at short notice to demand increases) that their Directorate budget is forecast to be overspent OR a particular Functional budget is forecast to be overspent by £25k. In either case, a formal report must be made to Cabinet (or Council if the overspend is in excess of £500k) setting out:

- A. The reason for the overspend in each function where budgets are

£25k over OR the reason for the Directorate overspend where no functional budget is £25k overspent

- B. Whether additional budget is being requested with supporting rationale. In the final outturn report, explanations should focus on steps taken to avoid or mitigate the overspend rather than a request for additional resources
- C. Steps being taken to address overspends and restore the Directorate expenditure plans to be within budget
- D. The particular source of funding being requested if applicable
- E. A description of attempts made to identify savings to offset the request for extra funds

- 4.18 Where Directors have reported on issues in one quarter, e.g. a Directorate or functional budget is overspent, then an update should be provided in subsequent quarters.
- 4.19 Directors are responsible, in consultation with their Portfolio Holder and Monitoring Officer if necessary, for determining whether a proposed virement would give rise to a change of Council policy. If this is deemed to be the case then the Monitoring Officer will advise as to whether Cabinet or Council approval is required.
- 4.20 Movement of money between functional budget ceilings is not virement to the extent that it reflects changes in management responsibility for the delivery of services. E.g. transfer of services from one directorate to another.
- 4.21 The Chief Finance Officer may also vire money between functional budget ceilings where such movements represent changes in accounting policy, or other changes which do not affect the amounts available for service provision. This includes for example the allocation of pay contingency to individual budgets when the pay negotiations are complete or reapportionment of overhead costs.
- 4.22 Nothing above requires any director to spend up to the budget ceiling for any service.
- 4.23 The Financial Procedure Rules allow Directors to use under spends within functional budgets to deliver functional objectives and priorities. If Directors plan to use an under spend in a given year to fund recurring expenditure (this is not allowed in respect of permanent staffing) but are of the view that this expenditure cannot be contained within the following years indicative budget (current budget plus inflation) then permission must be sought from Cabinet to increase the budget for the following year before any expenditure is incurred.
- 4.24 Where budgeted expenditure is to be met by grant income, Directors are responsible for complying with the conditions of grant. This includes making arrangements for the appropriate retention of documents, including clear

working papers, for audit purposes

### **Controlling Expenditure and Income**

- 4.25 Each Director is responsible for:
- a) managing the cost of each of services within their directorate budget and within functional ceilings;
  - b) ensuring, as far as possible, that their directorate budget is not overspent in total;
  - c) taking action to control expenditure.
- 4.26 Each Director is responsible for ensuring that there is a nominated budget manager responsible for controlling each cost centre budget and each functional budget within their departmental budget.
- 4.27 When nominating budget managers, Directors shall align budgetary accountability with managerial responsibility for use of resources as closely as possible.
- 4.28 Budget managers are responsible for ensuring that the budget for which they are responsible is not overspent (or under-recovered) and are accountable to their directors (through normal line management arrangements) in this regard.

### **Reserves**

- 4.15 The Council's budget management framework allows for the creation of earmarked reserves to meet specific purposes.
- 4.16 Earmarked reserves may be created or dissolved by Council. In creating a reserve, the purpose of the reserve must be clear and a maximum limit for the reserve must be set.
- 4.17 Cabinet is authorised to approve transfers from earmarked reserves without limits on the basis that use of the reserve is consistent with its original purpose.
- 4.18 The Cabinet can determine whether any additions/reductions should be made to earmarked reserves as long as the maximum limit in any one reserve is not exceeded.
- 4.27 Where Directors wish to access earmarked reserves for any reason a formal request must be made to Cabinet setting out:
- A. The reason for the request
  - B. The amount requested

C. The implications of the request being refused

- 4.19 The Council shall have a budget carry forward reserve. The Cabinet will approve whether any under spent resources shall be transferred to the carry forward reserve if it is determined that those resources are required for the same purpose in future years.

**Monitoring Expenditure**

- 4.20 Each Director shall report progress on the implementation of his/her budget to the Chief Finance Officer, in such manner and to such timescales specified for the purposes of financial monitoring.
- 4.21 The Chief Finance Officer shall report quarterly on progress of the achievement of the budget to Cabinet and Scrutiny Committees.
- 4.22 Cabinet will review the Council's financial performance at quarterly intervals, or more frequently if required, and will give clear direction on actions to be taken in relation to any forecast variations from the approved budget. Cabinet shall hold directors to account for their management and use of resources and may seek explanatory information from directors as it sees fit.
- 4.23 Each Scrutiny Committee will consider the financial performance for the portfolios within their remit and raise any matters of concern with, or make recommendations to, Cabinet. Scrutiny Committee may seek further explanation from any Director as it sees fit, or refer any matter to the Cabinet for its consideration.

**Reporting the Outturn**

- 4.37 The Chief Finance Officer shall report the revenue outturn to the Cabinet and to Scrutiny Committees as soon as practicable after the end of the financial year.
- 4.38 Each Director shall supply such information and explanations to the Chief Finance Officer as is requested for the purpose of this report.
- 4.39 The Cabinet shall hold Directors to account for their management and use of resources during the course of the year and may seek further information from Directors as it sees fit.

# RUTLAND COUNTY COUNCIL DISTRICT COUNCIL CONSTITUTION

## PART 9 FINANCIAL PROCEDURE RULES

### 5. CAPITAL BUDGET

#### Setting a budget

- 5.1 The Chief Finance Officer is responsible for recommending a capital programme to the Cabinet each year. He/she may recommend the programme as a whole, or authorise individual directors to recommend parts of the programme.
- 5.2 Each scheme within the capital programme shall be appraised in line with procedures set out by the Chief Finance Officer and approval sought from Cabinet, Council or individual Directors in accordance with agreed delegated limits.
- 5.3 Details of each scheme within the approved capital programme shall be appraised by Directors or any other group set up for this purpose prior to being submitted to Cabinet, Council or Directors for approval before any expenditure is incurred. The appraisal shall include:
- a) the purpose and objective of the project;
  - b) alternative methods of achieving the outcome, if possible;
  - c) whether approval is sought for design, and/or land acquisition or construction;
  - d) the estimated capital cost (including fees) at outturn prices and projected phasing of expenditure;
  - e) scheme specific project officers;
  - f) initial and on-going revenue implications;
  - g) key dates;
  - h) external finance e.g. capital grant, developer's contribution, borrowing; and
  - i) potential for the generation of capital resources through receipts etc.
- 5.4 The capital programme may consist of:
- a) appraised schemes for which specific sums of money are provided based on cost estimates;
  - b) provisional funding for schemes yet to be developed in detail but for which outline proposals will be given e.g. Highways capital programme; or
  - c) a combination of the two.

For all schemes, the capital programme will set out how they will be funded. Funding will either that held by the Council, that expected to be received in the future or further borrowing.

## **RUTLAND COUNTY COUNCIL DISTRICT COUNCIL CONSTITUTION**

### **PART 9 FINANCIAL PROCEDURE RULES**

- 5.5 The Cabinet shall recommend a capital programme to Council prior to the beginning of each year. The programme may be for one or more years. The Council shall approve the capital programme. In approving the Capital programme, Council will allow Cabinet to determine the details of specific schemes to be delivered (if they are not fully appraised at the time of approval) unless they specify otherwise irrespective of value.
- 5.6 When submitting a capital programme to the Cabinet, the Chief Finance Officer (or Directors as the case may be) shall identify the following:
- a) Details of approved projects and their basis of funding;
  - b) Details of funding available for unapproved projects;
  - c) The revenue consequences of any borrowing;
  - d) The revenue consequences of any schemes apart from the cost of borrowing;
  - e) The extent to which borrowing is affordable, sustainable and prudent with reference to such indicators as the Chief Finance Officer believes appropriate;
  - f) The extent of any pre-commitment of capital resources in years beyond the plan;
  - g) Where directors are authorised to commit expenditure on a scheme, the title of the director

#### **Additions and Amendments to Capital Programme by Directors**

- 5.7 Any proposal to amend the capital programme (which includes the resources allocated to schemes and resources available but not allocated at the time the budget is approved) by including a new project, increasing the project budget, deleting an approved project or changing how projects are funded shall require the formal approval of the Cabinet (there are no limits to the number of schemes that may be added) unless any one of the following applies:
- a) the total cost of the new Scheme is above £1m;
  - b) changes involve using new resources (e.g. new borrowing, capital receipts or revenue) not listed in the original programme;
  - c) Council have set out any special provisions at the time of approving the programme; and
  - d) Cabinet has delegated any of its authority to Directors or other groups.

#### **Incurring expenditure**

- 5.8 The approved capital programme shall specify the authority given to Directors and the Cabinet to commit expenditure.

# RUTLAND COUNTY COUNCIL DISTRICT COUNCIL CONSTITUTION

## PART 9 FINANCIAL PROCEDURE RULES

- 5.9 No expenditure may be incurred on a scheme funded by grant or third party contributions without written confirmation of these resources.

### **Controlling expenditure**

- 5.10 Once Directors have been authorised to incur expenditure, they are responsible for ensuring that each scheme is completed on time, in accordance with its objectives and within the approved capital programme provision.
- 5.11 Where the original estimate appears, at any stage of the project, likely to be exceeded by 10% where the project cost is greater than £250,000, or by 10% in other cases (but subject to a de minimis level of £30,000), or where any avoidable variations or discretionary charges are to be incurred.

### **Capital outturn**

- 5.12 Council/Cabinet determine how capital projects will be funded on advice from the Chief Finance Officer. There may be exceptional circumstances whereby it is financially beneficial to the Medium Term Financial Plan and thereby the Revenue Account to change how projects are funded (e.g. to avoid borrowing costs) if the financial context has altered when preparing the outturn. The Chief Finance Officer in preparing the outturn will seek approval of any changes from Cabinet or Council if changes involve using new funds are not listed in the original programme.

Directors shall report the facts immediately to the Cabinet and appropriate Scrutiny Committee.

### **Capital Monitoring**

- 5.13 Directors are responsible for ensuring that there are proper arrangements within their service areas for monitoring physical and financial progress of capital schemes.
- 5.14 The Chief Finance Officer shall periodically report progress on the capital programme and the outturn position to the Cabinet and Scrutiny Committees. Directors shall supply such information as may be required for the preparation of this report.
- 5.15 Scrutiny may seek further information on the performance of individual schemes from directors or refer matters to the Cabinet for further consideration as they see fit.
- 5.16 Upon completion of all capital schemes, the Director responsible shall ordinarily report to Cabinet on the outcome of the scheme in the financial monitoring reports unless Cabinet request a specific report. Such a report

# **RUTLAND COUNTY COUNCIL DISTRICT COUNCIL CONSTITUTION**

## **PART 9 FINANCIAL PROCEDURE RULES**

could include:

- a) whether the purpose and objective of the project were achieved;
- b) whether the scheme was completed in accordance with the original timetable;
- c) the final capital cost (including fees) compared to the original estimate;
- d) the on-going revenue implications.

For Highways capital projects, the Director will include a commentary on the outcome of prior year projects when seeking approval of the new capital programme.

### **Carry forward of resources**

- 5.17 Any resources unspent at the end of the financial year on approved schemes will be carried forward to future years unless the Cabinet determines otherwise, after consideration of the outturn position.

### **Capital receipts**

- 5.18 The Director for Places (Development and Economy) is responsible for achieving capital receipts required to finance the capital programme.
- 5.19 The Director for Places (Development and Economy) shall report the capital receipts received in the year to the Cabinet and Scrutiny Committees as part of quarterly monitoring reports.

## **6. GRANTS AND OTHER EXTERNAL FUNDING**

- 6.1 The Council may be asked to bid for external funding or be informed that funding is being made available to it subject to conditions. This section governs the approval process in each case recognising the expediency with which decisions have to be made.
- 6.2 Any expression of interest for funding (which does not commit the Council to formally bid for funding) can be made by any Director in consultation with the relevant Portfolio Holder.
- 6.3 Any applications for grant funding or other external funding above £50,000 must be approved by the Chief Finance Officer and then Cabinet unless the timetable for bidding will not allow. In these cases the Leader, Portfolio Holder Finance and Chief Finance Officer must approve any bids. The report to Cabinet shall set out:
- a) The purpose and objective of the project;
  - b) How projects fits in with the Council's objectives;
  - c) Details of funding/grant being sought;



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- d) Any financial contribution required from the Council either in terms of match funding or other costs;
  - e) Any ongoing revenue or capital implications;
  - f) Any known conditions of funding;
  - g) Key dates and milestones.
- 6.4 All applications for grant income/external funding below £50,000 must be signed by a Director and the Chief Finance Officer and undertaken with relevant Portfolio Holder approval
- 6.5 The certification of expenditure in support of a grant claim may only be authorised by the Chief Finance Officer or his/her nominee. Directors should maintain adequate records to demonstrate use of grant/funding and to be able to demonstrate adherence to any other conditions of grant.
- 6.6 If the Council receives grant funding from Government or other sources, then acceptance of the terms of conditions is the responsibility of Cabinet (where the amount exceeds £1m acceptance will be for Council) unless, in the cases of emergency/short notice, the Council would be at risk of losing funding OR the amount of funding is less than £500k. In these cases, the Chief Executive, Leader/Portfolio Holder for Finance and Chief Finance Officer may agree to the acceptance of terms and conditions but must report back to Cabinet at the next available opportunity.

### 7. ACCOUNTS

- 7.1 The Chief Finance Officer shall be responsible for the accounts of the Council and all accounting records and systems shall be subject to his or her approval and control. All changes to financial and accounting systems must be approved by the Director for Resources.
- 7.2 Accounting procedures will reflect recommended professional practices and follow accounting principles as determined by the Chief Finance Officer. Accounting procedures shall be reviewed as necessary by the Chief Finance Officer in consultation with the relevant Director to ensure they provide the information required by both without duplication of records.
- 7.3 The Chief Finance Officer shall annually prepare and publish in appropriate formats in accordance with CIPFA guidance and relevant legislation, a Statement of Accounts (SoA) by 30<sup>th</sup> June following the end of the financial year and make these available to the public.
- 7.4 The Audit and Risk Committee shall approve the SoA by 30<sup>th</sup> September each year.
- 7.5 Financial records shall not be disposed of other than in accordance with arrangements approved by the Chief Finance Officer.

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7.6 Directors shall provide all relevant information deemed necessary to compile the Council's final accounts in accordance with guidance issued by the Chief Finance Officer.

### 8. FINANCIAL ADMINISTRATION – EXPENDITURE AND INCOME

In the following section, references are made to the use of Agresso. Where Agresso is not used, alternative arrangements must be approved by the Chief Finance Officer.

#### Authorised Officers

8.1 Directors shall authorise appropriate officers to undertake the following duties;

- a) Raise purchase requisitions, on Agresso unless approved otherwise by the Chief Finance Officer, for works, supplies or services to the extent that contractual arrangements already exist, as described below;
- b) Certify, on Agresso unless approved otherwise by the Chief Finance Officer, the receipt of works, supplies or services;
- c) Approve purchase requisitions, on Agresso unless approved otherwise by the Chief Finance Officer, or other orders, both those for work procured by approved procuring officers, where the person authorising will need to ensure that the order complies with Contract Procedure Rules, and those that relate to existing contractual arrangements;
- d) Approve personnel variations, time sheets, officer expense claims, petty cash, imprest accounts, change floats, cash advance forms, debtors accounts, internal recharges and end of year stock certificates; and
- e) Certification for cheques, BACs authorisation, CHAPs authorisation and grant claims.

8.2 Only officers authorised to procure under arrangements contained within Contract Procedure Rules are entitled to test the market or purchase from select lists. No other officer is entitled to obtain quotations or run a tendering exercise.

8.3 Directors shall ensure that approved officers have appropriate seniority and expertise to ensure that they are able to discharge the functions assigned to them for the purposes of these rules. Authorised officers are accountable to their Directors for the exercise of these functions. Authorised limits for different officers are set out below. The authorisation levels apply only to cost centres for which Authorised Officers have been given access.

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Amount	Authorised officer
< £50,000	Budget Manager
£50,000.01p - £100,000	Head of Service or equivalent
£100,000.01p - unlimited	Director/Deputy

- 8.4 Directors shall ensure that arrangements are made for effective separation of duties when designating approved officers as enforced through Agresso, in order to provide adequate internal check over all transactions, and comply with any guidance given by the Chief Finance Officer.
- 8.5 Directors shall ensure that the arrangements for approved officers are consistent with the budgetary control framework for their area and that in particular cost centre managers' ability to manage their budgets is safeguarded.
- 8.6 Directors shall ensure in conjunction with the Chief Finance Officer that the list of authorised officer and approval levels on Agresso remains accurate.
- 8.7 References to **Authorised Officers** in the rest of this section of Financial Procedure Rules shall be read in the context of the above.

### Orders for Works, Supplies and Services

- 8.8 The Chief Finance Officer is responsible for providing a corporate system for raising purchase requisitions and creating official orders (Agresso).
- 8.9 This system shall be used for all official orders, except in emergencies, or in accordance with other arrangements specifically approved by the Chief Finance Officer. In giving such approval, the Chief Finance Officer shall ensure the alternative arrangements provide for effective financial control, and shall have regard to the continuing viability of the corporate arrangements.
- 8.10 Official orders shall be issued for all purchases, excluding the following items:
- a) Purchases through petty cash and imprest accounts;
  - b) Recurring charges such as gas, electricity and telephone charges and other charges for which a payments register or other method of recording/monitoring payments is more appropriate than an order.
- 8.11 Purchase requisitions shall only be raised and approved by authorised officers. This approval process shall be used to create an official order. Budget provision must exist for all requisitions and orders.
- 8.12 In those exceptional circumstances in which the corporate system is not used, Directors shall only obtain official order forms in accordance with arrangements approved by the Chief Finance Officer and shall be responsible

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for their control and use.

- 8.13 Where urgent orders are given orally, they shall be confirmed immediately by an official order.
- 8.14 Official orders should be specific, e.g. they should state quantity, weight, size, grade, quality, and where practicable, price. Where supplies are ordered under contract, it is particularly important that the order and contract have the same specification of supplies required.
- 8.15 Orders shall be raised with approved suppliers only. Officers shall notify Exchequer Services of new suppliers using a form specified by the Chief Finance Officer. Exchequer Services will maintain supplier accounts including processing changes of supplier details on receipt of authorised information received from suppliers. Exchequer Services will undertake checks on supplier information as specified by the Chief Finance Officer.

### **Payments for Works, Supplies and Services**

- 8.16 Payment for works, supplies and services may only be made:
- a) On receipt of an invoice or contract certificate which satisfies VAT regulations;
  - b) Where liability for payment by the Council is clearly established; and
  - c) To approved suppliers.
- 8.17 No payment for works, supplies or services shall be made unless the works, supplies or services have been certified as received by an authorised officer. This certification will be done using Agresso.
- 8.18 The Chief Finance Officer is responsible for providing a corporate system for the payment of accounts (Agresso). Directors shall use this system for all payments except in accordance with other arrangements specifically approved by the Chief Finance Officer. In giving such approval, the Chief Finance Officer shall ensure that the alternative arrangements provide for effective financial control, and shall have regard to the continuing viability of the corporate arrangements.
- 8.19 Authorised officers shall ensure that payments for works, supplies or services are not made unless:
- a) Works, supplies or services have been supplied in accordance with an official order, and the amount invoiced is correctly payable. The official order number should be quoted on the invoice.
  - b) Payment is in respect of a service regularly supplied (e.g. gas and

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electricity), and the amount invoiced is properly payable; or

- c) Payment is made for works, supplies or services under contract, and the amount is properly payable under the terms of that contract.

### **Salaries and other payments to employees**

8.20 The Chief Finance Officer is responsible for approving a corporate payroll system for recording payroll data and for generating payments to employees. The Chief Finance Officer is also responsible for ensuring that National Insurance, Income Tax and any other such liabilities are properly determined and that deductions due are made and properly accounted for.

8.21 Directors shall use the corporate payroll system for all payments to employees.

8.22 Where payments are made for services in which the relevant taxation authorities deem that a contractor is “employed” by the Council, Directors are responsible for ensuring that National Insurance, Income Tax and any other such liabilities are properly determined and deductions due are made and properly accounted for.

8.23 Except where employees are responsible for providing data directly themselves, Directors are responsible for ensuring that all information affecting an employee’s entitlement to pay, or rate of pay, and all other information required for the smooth operation of the corporate payroll, shall be notified to Human Resources (HR) and/or Payroll.

8.24 This shall be done by means of direct input to the corporate payroll system or by means of a form, in either case following procedures approved by the Chief Finance Officer. In either case, Directors shall make arrangements for data supplied to be verified and authorised by an authorised officer. In particular the following shall be notified:

- a) Appointments, resignations, dismissals, suspensions, secondments and transfers;
- b) Changes to standing data held on the payroll system;
- c) Absences from duty for sickness or other reason, apart from approved leave;
- d) Car loan approvals;
- e) Changes in remuneration, other than normal increments, pay awards and any agreements generally reached, and notified separately to the Chief Finance Officer; and
- f) Information necessary to maintain records of service for superannuation, Income Tax, National Insurance and related purposes.

8.25 All time records or other paper documents affecting entitlement to salaries and  
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wages on any specific occasion shall be in a form approved by the Chief Finance Officer and shall be processed in accordance with procedures specified by the Chief Finance Officer.

- 8.26 These documents shall be signed by the employee and certified as correct by an authorised officer.
- 8.27 All claims for payment of travelling and subsistence allowances, removal expenses and the like shall be submitted directly to Agresso or in an approved form to the Chief Finance Officer for payment and be certified as correct by an authorised officer.
- 8.28 All claims for the payment of Councillors' allowances and expenses shall be submitted directly to Agresso or in a form specified by the Chief Finance Officer which complies with statutory requirements, and certified as correct by an authorised officer. Alternatively, the Chief Finance Officer may require such documents to be submitted electronically.
- 8.29 Any other benefits provided to employees, in particular benefits in kind rather than in cash, but also including such things as payments received by staff for elections, may/will also be taxable and/or liable to National Insurance contributions, and may also be subject to a deduction from pay. The responsibility for identifying any liabilities in this respect is with each Director who should seek advice from the Chief Finance Officer where appropriate.
- 8.30 Whilst it is the Council's responsibility to ensure that salaries are correctly paid and that any deductions are appropriate, staff members have a responsibility to check that the salary they receive is correct and to report back any errors or queries. If it is identified that any under or over payments have been made, the Council will seek to make good any under payments or recover overpayments irrespective of whether these have been authorised. In the event that overpayments have been made, staff members may be subject to disciplinary action if it is identified that overpayments should have been identified.

### **Income**

- 8.31 The Chief Finance Officer is responsible for the general control, supervision and collection of all money due to the Council and shall maintain adequate arrangements for the proper recording and accounting of all sums due to the Council. In this section income means all cash, cheques, or other forms of payment including credit/debit cards.
- 8.32 The method of collection and form of records relating to income maintained by each Directorate shall be agreed in advance with the Chief Finance Officer.
- 8.33 Scales of charges for services, except where fixed by statute, must be reviewed annually, or more frequently if required, by the relevant Director and agreed

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with the Chief Finance Officer before being submitted to Cabinet for approval. Directors must ensure that review of fees charges is undertaken with any legislation and that the basis of any charge, e.g. cost recovery, is set out in any report. The only exception to the above relates to charges for commercial activities e.g. business unit rents. In this case the Director responsible may vary charges to respond to market conditions and/or other factors.

### **Credit Income**

- 8.34 The Chief Finance Officer is responsible for approving a corporate invoicing system (Agresso). Directors shall use this system for all credit income except in accordance with other arrangements specifically approved by the Chief Finance Officer. In giving such approval, the Chief Finance Officer shall ensure that the alternative arrangements provide for effective financial control, meet with the requirements of the appropriate taxation authorities.
- 8.35 Directors are responsible for ensuring that all debts due to the Council are promptly and accurately raised and either collected in money (or other forms of immediate payment) or invoiced.
- 8.36 The Chief Finance Officer is responsible for collecting all income invoiced via the corporate invoicing system.
- 8.37 Directors shall advise the Chief Finance Officer of any new sources of income which are exempt from VAT, and of material change to existing sources of income which are exempt from VAT.

### **Cash and cheques**

- 8.38 Officers responsible for the collection of income shall ensure that money collected is recorded and banked without undue delay.
- 8.39 Subject to the following rules, all receipt forms, tickets and other types of controlled stationery by which income is acknowledged shall be ordered and supplied by the Chief Finance Officer; and Directors shall be responsible for the safe custody of such documents.
- 8.40 Receipts and other forms of controlled stationery which are specific to a particular function may be ordered and controlled by the appropriate Director, in accordance with arrangements approved by the Chief Finance Officer.
- 8.41 All cash received must be acknowledged at once by the issue of an official receipt or ticket, or an entry on a payment card provided for the purpose and all chargeable VAT must be analysed and accounted for. No officer or agent of the Council shall give a receipt for cash received on behalf of the Council in any form other than an official receipt. No acknowledgement need be given for payment by cheque, however, unless requested by the debtor.

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- 8.42 All money received must be accounted for and paid into an approved bank account, either directly, or via Finance on the day of the receipt, or as soon as practicable thereafter, dependent on the values involved and arrangements for the safe custody of cash (i.e. ensuring insurance value limits are not exceeded).
- 8.43 An officer may on no account borrow any money temporarily for their own use, nor should they, except in the case of expenses they incur whilst travelling on Council business, make payments on behalf of the Council from their own pocket. Arrangements may be made with the Chief Finance Officer for an officer who is handling small sums to bank less frequently.
- 8.44 An officer is responsible for the safe custody of any money she or he has received until it has been balanced and banked or handed over to another officer for banking. If the money is handed over to another officer, a receipt should be obtained from the officer receiving it. If the money is in a sealed container, the officer should obtain a receipt for the container.
- 8.45 Whilst money is in their custody, officers should, at no time, leave it unattended unless it is locked in a safe place, to which the officer alone has access, and which fulfils insurance requirements.
- 8.46 All officers who pay money into any of the Council's bank accounts shall list the amount of every cheque on the paying-in slip and the counterfoil or duplicate, together with some reference, such as an account number, which will connect the payment with the debt; or failing this, the name and address of the debtor.
- 8.47 Cash received by officers on behalf of the Council shall not be used to cash postal orders, personal or other cheques.
- 8.48 The Chief Finance Officer is responsible for approving all systems for the processing of payments by debit, credit and top up payment cards.

### **Write-Off of Debts**

- 8.49 No debt properly due to the Council shall be discharged otherwise than by payment in full, credit note (in the case of error or where a service order has not been fulfilled) or write-off.
- 8.50 Subject to conditions set out below, all debts which a Director or the Chief Finance Officer has been unable to recover at reasonable effort and expense and for which normal recovery processes have been exhausted, shall be referred without delay to Legal Services.
- 8.51 Debts may be written off as follows:

- a) By the Finance Manager and Revenues/Benefits Manager for debts up to £100;



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- b) By the Chief Finance Officer for debts up to £2,500; and
- c) By the Cabinet for debts above £2,500.

However, if either the individual amount or the total of (several) amounts for the same debtor is greater than £2,500, Cabinet's approval for write off is required. Cabinet shall be advised at the earliest available opportunity when such a debt level is reached. Debts shall not be written off at different times in order to circumvent Cabinet's approval.

- 8.52 In the event that there is reason to believe that the cause of any debt being irrecoverable is attributable to fraud, theft, irregularity or the negligence of an employee, the Director shall refer the matter to the Head of Audit (HoA).
- 8.53 The debt shall not be written off until any necessary investigative or other action has been agreed by the Director and the HoA.

### Monitoring of Income Collection

- 8.54 The Chief Finance Officer shall report at least once a year to the Cabinet on progress with the collection of the Council's income, with particular reference to the arrears outstanding in respect of each main class of income, debts written-off, action being taken to recover or reduce those arrears and the status of deferred payment agreements

### Banking Arrangements

- 8.55 In this section, the Council's **main bank accounts** are all bank accounts maintained by the Council other than those operated solely for specific establishments or purposes.
- 8.56 The Chief Finance Officer is responsible for operating the Council's main bank accounts but may delegate day-to-day operation to other officers.
- 8.57 The Chief Finance Officer is responsible for ensuring that regular and complete reconciliations are carried out, for all the main bank accounts, of balances held to financial records maintained.
- 8.58 All cheques (except imprest account cheques) for the Council's main bank accounts shall be produced directly from Agresso in a format approved by the Chief Finance Officer, who shall make proper arrangements for the preparation and despatch of the cheques, and for the custody of blank cheques.
- 8.59 Imprest cheques shall be ordered and controlled by the Chief Finance Officer who shall make proper arrangements for the safe custody of blank cheques and the preparation, signing and despatch of the cheques. Directors shall ensure that for all other Council bank accounts cheques are held, prepared, signed and despatched in a form approved by the Chief Finance Officer.

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- 8.60 All cheques drawn on the Council's main bank accounts shall bear the pre-printed signature of an authorised Director or the Chief Finance Officer or, in the case of imprest cheques, be signed by the Chief Finance Officer or signatory authorised by him or her. Cheques drawn on any other Council bank accounts should be signed by an authorised officer.
- 8.61 The Chief Finance Officer is responsible for ensuring that all payments made from the main bank accounts by way of Clearing House Automated Payments (CHAPs) and Bankers Automated Credits (BACs) transactions are properly controlled and suitably authorised.
- 8.62 The Chief Finance Officer is responsible for sanctioning the issue of Corporate Credit Cards to staff and for reconciling expenditure incurred to the main bank accounts. Directors are responsible for ensuring that staff use the cards in accordance with procedures issued, including the provision of valid receipts to support the expenditure incurred. Where Corporate Credit Cards are not used in accordance with stipulated procedures then the Chief Finance Officer may withdraw the arrangement.

### **Stock**

- 8.63 Directors may hold stocks of consumable items; materials; and equipment for use in the maintenance of assets under their control and the provision of services. They are responsible for the receipt, custody and issue of stock items for their functions and for maintaining suitable records which comply with any guidance given by the Chief Finance Officer.
- 8.64 Directors shall ensure that stock items are effectively safeguarded from loss, theft or damage.
- 8.65 Directors shall arrange for a periodic stock-take to be undertaken for any stock held in excess of £1,000 independently of the employees responsible for the custody of those stocks, such that the existence and value of all items are checked at least once a year. The write-off of deficiencies or adjustments related to individual stock items may be authorised as follows:
- a) By the relevant Director for write-offs which do not exceed £500, subject to an overall limit equivalent to 5% of total opening stock; and
  - b) By the Chief Finance Officer for write-offs in excess of £500 subject to periodically reporting the write-offs to the Cabinet.
- 8.66 The value of stocks held at 31st March each year shall be certified by an authorised officer and supplied to the Chief Finance Officer in such form and at such time as may be decided by the Chief Finance Officer.
- 8.67 Surplus and obsolete stocks must be disposed of by Directors on the best terms possible.

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8.68 Where such items are not disposed of and or sold to a company under contractual terms, they may, when judged best, and, subject to independent check, be offered for sale to staff, provided that permission to proceed is first obtained from the Chief Finance Officer and that subject to that permission, the sale is advertised to as many staff as possible (e.g. using the intranet) for a reasonable length of time (i.e. no less than 4 weeks).

8.69 All devices that could contain data (e.g. PCs, laptops, mobile phones, hand held communication devices, memory sticks etc.) **must** be disposed of through ICT.

8.70 Any disposals shall be recorded by Directors concerned and records maintained.

#### **Cash Advances, Petty Cash Floats and Imprest Accounts**

8.71 The Chief Finance Officer may provide cash advances in the form of a petty cash cheque which may be cashed at a bank, to employees for such amounts as are considered necessary by Directors for the purpose of meeting expenses. Directors are responsible for ensuring that employees promptly return any unused advances together with valid receipts to support monies expended, to the appropriate distribution point. Where this does not occur the Chief Finance Officer may authorise deduction of the appropriate sum from the employee's next salary payment.

8.72 The Chief Finance Officer may provide petty cash floats / imprest accounts of such amounts as are considered necessary by Directors for the purpose of meeting minor expenses.

8.73 Directors are responsible for making arrangements for the safe keeping and proper use of all petty cash / imprest accounts.

8.74 Each petty cash float / imprest account must be in the sole charge of a single petty cash float / imprest account holder, who is responsible for the proper use and safety of the sums held. Directors shall ensure that petty cash float / imprest account holders sign a document to confirm receipt when first acquiring a petty cash float / imprest account. The maximum amount that can be retained is £500.

8.75 The petty cash float / imprest account holder may use the account to make payments in respect of expenditure legitimately incurred for Council purposes, and must record payments made in a petty cash / imprest cash book. The petty cash float / imprest account holder shall obtain cash vouchers for all payments made, and such cash vouchers shall adequately record any VAT incurred and have VAT receipts attached. The person receiving the cash sum shall sign the voucher.

8.76 When a petty cash float / imprest account needs replenishing, the petty cash

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float /imprest account holder shall summarise payments made on a record in a form approved by the Chief Finance Officer. The record must be certified as correct by an authorised officer, who must check the petty/imprest cash book, the cash vouchers and any cash held. The completed record, and such other documentation as the Chief Finance Officer shall require, shall be presented to the Chief Finance Officer for reimbursement.

- 8.77 Each petty cash float /imprest account must be kept in a lockable box to which the petty cash/imprest account holder alone has access. The box shall be kept securely, for example in a lockable cupboard or safe, in accordance with arrangements specified by the Chief Finance Officer (Specific requirements for Insurance cover must be met).
- 8.78 On ceasing to hold a petty cash float /imprest account, the petty cash /imprest account holder must produce the petty/imprest cash book, vouchers and any unspent balance to an authorised officer for checking and retention. The advance will then be handed over to a successor nominated by the Director, or returned to the Chief Finance Officer.
- 8.79 Petty cash float /imprest account should only be used for small transactions where it is quicker and more efficient to buy the goods locally rather than by official order.
- 8.80 Travelling, subsistence and post-entry training expenses should be reimbursed through the appropriate allowance payment systems, and not from petty cash float /imprest account.
- 8.81 No income should be paid into a petty cash float/imprest account.
- 8.82 For the purposes of closure of the Council's accounts each financial year end, the Chief Finance Officer will require a certificate from each petty cash float /imprest account holder, which should be countersigned by an authorised officer, providing such details as the Chief Finance Officer shall specify.
- 8.83 Directors shall keep up-to-date records of petty cash float /imprest account holders.
- 8.84 At the end of the financial year, the holder of each petty cash float/imprest will confirm, when requested by Finance, the amount of the cash float held.

### **E-Bay**

- 8.85 The Council has an E-Bay account which is controlled by the Chief Finance Officer or an officer designated by the Chief Finance Officer for this purpose. Any Director wishing to use the E-Bay account may seek approval for the Chief Finance officer. In using the account, Directors must comply with any procedures set out by the Chief Finance Officer.

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### 9. TREASURY MANAGEMENT

#### General

- 9.1 The Chief Finance Officer shall be responsible for the overall management of the authority's investment, borrowing and other capital financing arrangements but may delegate day to day treasury management activity to other officers. The Chief Finance Officer shall approve arrangements for the delegation of the investment of balances as required under schemes for local management of schools and colleges. The Chief Finance Officer shall maintain records of all borrowings and lending of money by the Council.
- 9.2 At the beginning of each year and prior to the approval of the Council's budget, the Chief Finance Officer shall report to the Cabinet a Treasury Management Strategy for the year. The Strategy, which shall comply with the approved policy, shall identify the Authority's strategy for borrowing and lending during the financial year and set out its policy for minimum revenue provision. The Cabinet shall recommend the Strategy to Council for approval.
- 9.3 The performance of the Treasury Management function shall be reported to the Cabinet. The Chief Finance Officer shall report to the Cabinet not less than twice in each financial year on the activities of the Treasury Management operations and the exercise of the delegated Treasury Management powers. Such reports shall include an annual report on Treasury Management activity for each financial year for presentation by 30 September of the succeeding financial year, a quarterly list of investment, a mid-year Treasury Management activity report and an annual strategy and plan in advance of the start of each financial year.
- 9.4 The Chief Finance Officer will manage and report on the Council's Treasury Management Operations in accordance with the CIPFA "Code for Treasury Management in Local Authorities", and the Council's approved Treasury Management Strategy.

#### Loans

- 9.5 All borrowing shall be undertaken by the Chief Finance Officer. Directors do not have authority to borrow money.
- 9.6 The Chief Finance Officer is responsible for ensuring that loans are effected in the Authority's name to meet the needs of the Authority on the most economic terms. All borrowing shall comply with the Council's Treasury Strategy.

#### Investments

- 9.7 The Chief Finance Officer shall make arrangements for the investment and management of all of the Authority's cash balances (including schools except where they opt out) in accordance with the Annual Investment Strategy, except

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in respect of any specific cash balances where other arrangements are approved by the Cabinet.

- 9.8 All investments under the control of the Council shall be made in the name of the Authority unless otherwise agreed by Council in respect of any specific investments.
- 9.9 All securities which are the property of or are in the name of the Council or its nominees and the title deeds of all property in its ownership shall be held in the custody of Legal Services.
- 9.10 All trust funds shall wherever possible be in the name of the Council.
- 9.11 All officers acting as trustees by virtue of their official position shall deposit all securities and other such documents relating to the Trust with the Legal Services Manager unless the deed otherwise provides.

### **10. ASSET REGISTER**

- 10.1 The Chief Finance Officer shall have access to all inventories and other records maintained by Divisional Directors for the purposes of compiling and maintaining an asset register in accordance with the relevant accounting regulations.
- 10.2 Directors will maintain inventories and other records to support the asset register in a format agreed by the Chief Finance Officer. Any individual items of plant, machinery, equipment and other assets that are capitalised will be included in the asset register.
- 10.3 The Chief Finance Officer will also specify what other inventories and records need to be maintained by Directors in order to help safeguard the items recorded in it from loss, theft or damage. Directors shall be responsible for carrying out an annual check of all items on all inventories and other records of equipment maintained. Based on original cost, the write-off of deficiencies may be authorised as follows:
- a) By the relevant Director for amounts not exceeding £2,000.
  - b) By the Chief Finance Officer for amounts exceeding £2,000.
- 10.4 Any significant variations should be investigated and reported to the Chief Finance Officer for insurance purposes, with consideration given to reporting the matter to the Chief Finance Officer as a suspected irregularity.
- 10.5 With the exception of portable IT and communication devices issued to individual officers to assist them in undertaking their duties, assets in the custody of the Council shall not be removed from Council premises, other than in accordance with the ordinary course of the Council's business, or used otherwise than for the Council's purposes, except where specifically

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authorised by the appropriate Divisional Director.

- 10.6 Surplus or obsolete items should initially be offered for use elsewhere in the Council, and where not required, disposed of by Directors on the best possible terms. Where items are to be disposed of for a sum which is less than current value, by an amount which exceeds £2,000, then this shall be authorised by the Chief Finance Officer, subject to periodically reporting the disposals to Resources Scrutiny Committee. Where such items are not disposed of and or sold to a company under contractual terms, they may, when judged best, and, subject to independent check, be offered for sale to staff, provided that permission to proceed is first obtained from the Chief Finance Officer and that subject to that permission, the sale is advertised to as many staff as possible (e.g. using the intranet) for a reasonable length of time (i.e. no less than 4 weeks).
- 10.7 All devices that could contain data (e.g. PCs, laptops, mobile phones, hand held communication devices, memory sticks etc.) **must** be disposed of through ICT.
- 10.8 Any disposals shall be recorded by the Director concerned and records maintained.
- 10.9 Directors shall advise the Chief Finance Officer of the disposal of items for which an adjustment is required to an asset register.

### **Buildings, Land and Other assets**

- 10.10 Any acquisition, disposal, appropriation or exchange of property or other fixed assets shall be in accordance with the capital programme approved by the Council or through a separate approval.
- 10.11 For any acquisition, appropriation or exchange of property or other fixed assets in excess of £10,000 a report shall be made by the relevant Director, in consultation with the Portfolio holder and Chief Finance Officer, to the Cabinet for approval.
- 10.12 For any disposal of property or other fixed assets in excess of £200,000 a report shall be made by the relevant Director, in consultation with the Portfolio Holder and Chief Finance Officer, to the Cabinet for approval
- 10.13 Any disposal, appropriation or exchange of property or other fixed assets shall ensure that the Council obtains value for money from the transaction. Terms of disposal should not be finalised without the benefit of a current valuation undertaken a suitable firm of valuers appointed under arrangements approved by that Director. The terms of disposal must also take account of the taxation implications to the Council of the disposal.

## **11. RISK MANAGEMENT AND INSURANCE**

## **RUTLAND COUNTY COUNCIL DISTRICT COUNCIL CONSTITUTION**

### **PART 9 FINANCIAL PROCEDURE RULES**

- 11.1 The Chief Finance Officer is responsible for ensuring that the Council's risks are adequately assessed, and for arranging external insurance cover or making alternative arrangements to provide for potential future liabilities and losses.
- 11.2 Directors shall advise the Chief Finance Officer of all risks, and changes to risks, in accordance with procedures specified by the Chief Finance Officer. Directors are not authorised to arrange insurance cover except via the Chief Finance Officer.
- 11.3 Formal identification of key risks which could threaten identified service or Council objectives must be carried out using a risk management process approved by the Chief Finance Officer.
- 11.4 Identified risks and any remediable actions are to be agreed as part of the process which will include costs and timescales for action.
- 11.5 Directors shall maintain risk registers and ensure that they are kept up to date and monitored on a quarterly basis, reporting significant risk / projects to the Cabinet and relevant Scrutiny Committee through the Corporate Performance Report.
- 11.6 Any damage, loss or other event which may lead to an insurance claim shall be notified immediately to the Chief Finance Officer and to the Insurance section by email [insurance@rutland.gov.uk](mailto:insurance@rutland.gov.uk). No action should be taken or undertaking given by any officer which would prejudice the Council's position in making an insurance claim.
- 11.7 Failure to inform the Chief Finance Officer of any changed circumstances could affect the validity of the insurance cover.
- 11.8 Directors are responsible for ensuring compliance with the terms of any relevant insurance policy and for implementing any other advice given by the Chief Finance Officer on the management of insured and uninsured risks.

### **12. FINANCIAL INDUCEMENTS, GIFTS, HOSPITALITY AND PROMOTIONAL OFFERS**

- 12.1 All officers shall notify their Director and the Monitoring Officer in writing if they have a financial interest (direct or indirect) in any current or proposed contract of the Council. The Monitoring Officer shall record in a schedule to be kept for the purpose, particulars of any such notice given. Failure to disclose a financial interest in a contract is an offence under section 117 of the Local Government Act 1972. The schedule will be available at all reasonable hours for inspection of any Member of the Council.



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- 12.2 All officers shall advise their Director and the Monitoring Officer, of any conflict of interest which has arisen or might arise because they are likely to be required or authorised to do something as a Council Officer, in which they have a personal or private interest.
- 12.3 No employee shall accept secondary employment or a financial payment from any person, body or organisation e.g. contractors, developers, consultants, etc, without prior express written approval from their Director.
- 12.4 All officers must comply with the Employee Code of Conduct and Gifts and Hospitality Guidance and Procedures. Further advice should be sought from the Monitoring Officer or Head of Corporate Governance.

### **13. INTERNAL AUDIT**

#### **General**

- 13.1 The primary role of the Internal Audit Service is to objectively examine, evaluate and report on the adequacy of the Council's internal control environment as a contribution to the proper, economic, efficient and effective use of resources and the management of risk. Internal Audit also advises on, carries out and directly supports investigations into suspicions of fraud or financial irregularity.
- 13.2 In accordance with Section 6 of the Accounts and Audit Regulations 2011, the Chief Finance Officer and the Chief Executive shall be responsible for maintaining an adequate and effective internal audit of the Council's accounting records, control systems and financial transactions including any operations affecting the financial arrangements or the finances of the Council. The Internal Audit Section shall comply with the current CIPFA Code of Practice for Internal Audit in Local Government, in undertaking its functions.

#### **Audit Planning and Reporting**

- 13.3 The Chief Internal Auditor shall prepare and agree with the Chief Finance Officer an Annual Audit Operational Plan which will set out the intended work of Internal Audit over the coming year. The plan shall be based on an objective assessment of need arising from an analysis of risk and shall be approved and directed, by the Audit and Risk Committee. Irrespective of its means of delivery, every process, service and activity falling within the Council's responsibility shall be subject to the Council's system of internal audit.
- 13.4 The views of Directors shall be sought about which activities are to be included in the plan as being in need of audit.
- 13.5 Work outside the plan may also be specially commissioned at the request of a Director via the Chief Finance Officer who shall report such requests to the

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### **PART 9 FINANCIAL PROCEDURE RULES**

Audit and Risk Committee for approval. Any such reviews shall be risk-assessed by Internal Audit and only undertaken if the risks involved justify the audit work necessary and subject to the agreement of any additional cost with the Chief Finance Officer.

- 13.6 Internal Audit shall at all times conduct its work in accordance with relevant Internal Audit standards and any other protocols agreed with the Chief Finance Officer.
- 13.7 For the purposes of carrying out an audit or investigation, Internal Auditors and the Chief Finance Officer are authorised to:
- a) have access at all times to any Council premises and property;
  - b) have access to all data, records, documents and correspondence relating to any financial or any other activity of the Council;
  - c) have access to any assets of the Council;
  - d) require from any member, employee, agent, partner, contractor or other person engaged in Council business any necessary information and explanation.
- 13.8 These rights of access include access to relevant records (whether electronic or otherwise) held by service providers. They apply to Council services provided under contracts and partnership arrangements of all kinds including joint and pooled arrangements.
- 13.9 This right of access shall be incorporated within all relevant contract or service agreement documents involving Council services provided other than internally. It applies to all internal auditors legitimately engaged on Council Internal Audit business, whether they are employees of Internal Audit or are provided under an authorised agency or other contract or partnership.
- 13.10 Internal Audit shall remain at all times free from undue influence or other pressure affecting its actions and reporting.
- 13.11 Internal Audit shall report in its own name to the Chief Finance Officer. The Council's Chief Internal Auditor shall have direct access and the right of report to the Chief Executive, Directors, the Monitoring Officer, the External Auditor, the appropriate Scrutiny Committee and the Cabinet, where appropriate if, in their opinion, there are matters of concern that could place the Council in a position where the risks it faces are unacceptable.
- 13.12 From time to time, the Chief Internal Auditor shall report to the Audit and Risk Committee on progress made in delivering the Internal Audit Operational Plan.
- 13.13 Implementation of the recommendations made in internal and external audit

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reports shall be monitored by the Audit and Risk Committee. Directors are accountable to the Audit and Risk Committee for ensuring that appropriate action is taken in accordance with those recommendations.

- 13.14 The Chief Finance Officer shall report annually to the Audit Committee on the provision of the Internal Audit service. In addition, the Chief Finance Officer shall report to the Audit Committee on the annual review of the effectiveness of the Council's system of internal audit.

### **Directors' and employees responsibilities in respect of financial control and irregularities**

- 13.15 All Directors shall maintain proper financial controls in financial systems operated within their area of responsibility (see section 2 of these rules) and shall be responsible for the prevention, detection and resolution of fraud and irregularities.
- 13.16 All employees are under a duty to report to their senior officer any instance where financial irregularity is suspected. (Guidelines to staff on this matter are contained in the Council's whistle-blowing procedures).
- 13.17 Directors shall cooperate fully at all times with Internal Audit and ensure that Internal Audit can properly fulfil its role. Any disputes or non-cooperation may be referred to the Chief Finance Officer and ultimately the Audit and Risk Committee for resolution.
- 13.18 Immediately any actual or potential financial irregularity affecting the Council is known or suspected, the appropriate Director shall inform the Chief Internal Auditor, make proposals in respect of any further investigation that may be required (and the extent of any support required from Internal Audit) and make proposals in respect of other action to be taken.
- 13.19 If the proposals are acceptable to the Chief Finance Officer, Directors shall carry out the proposed actions. Otherwise, alternative proposals shall be made.
- 13.20 Directors are responsible for taking appropriate action on receipt of recommendations from Internal Audit, either as a consequence of a planned or specially commissioned review or an investigation into a suspected fraud or financial irregularity.

### **Investigations**

- 13.21 The Chief Finance Officer shall ensure that every case where there are grounds for suspicion of fraud or financial irregularity is considered, and that proposals for action (where appropriate) are made by Directors. The Chief Finance Officer reserves the right to investigate any suspected fraud or irregularity via the Internal Audit Service.

## **RUTLAND COUNTY COUNCIL DISTRICT COUNCIL CONSTITUTION**

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- 13.22 All action taken shall comply with the Council's Anti-Fraud and Corruption Policy Statement as adopted and approved by the Audit and Risk Committee.
- 13.23 In respect of investigations into suspected Housing and Council Tax benefits fraud, the Chief Finance Officer, or another person authorised by the Chief Finance Officer for this purpose, shall have full discretion to determine the appropriate course of action, including referral to Legal Services or the Police for consideration of prosecution.
- 13.24 In all other cases, referral to the Police shall only be made after full consultation with the appropriate Director and the Monitoring Officer

#### **14. EXTERNAL AUDIT**

- 14.1 The Audit Commission appoints the Council's External Auditors. Once appointed the auditors carry out their statutory and other responsibilities and exercise their professional judgement independently of the Audit Commission.
- 14.2 The statutory responsibilities of appointed auditors are set out in the Audit Commission Act 1998 and the Local Government Act 2000, but their principal duties are:
- a) the audit of the Council's annual statement of accounts;
  - b) the audit of the Council's use of resources; and
  - c) the audit of grant claims.
- 14.3 In discharging these specific responsibilities and powers, auditors are required to carry out their work in accordance with the Audit Commission's Code of Audit Practice.

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### GLOSSARY

Financial System	Any system (computerised or otherwise) and associated procedures for making or recording any financial transaction of the Council.
Council Tax requirement	The amount required by the Council from council taxpayers in any given year to meet its budgeted expenditure.
Directorate budget	The sum of all individual service budgets for which a single director is responsible.
Functional budget ceiling	The functional budget is that allocated by Council to a particular function or area. The ceiling represents the top of that budget.
Virement	A virement is a reallocation of funds and their purpose from one budget head/service to another.
Earmarked reserve	A reserve created for a specific purpose.
Carry forward reserve	A reserve created for the purpose of holding underspends to be carried forward.
Additional budget	A new or additional budget to that approved by Council in February.
Capital Resources	Sums of money which may be spent on capital expenditure.
Capital Programme	Is the Council's available capital resources including the planned level of spending on all capital schemes.
Purchase Requisition	A priced and itemised request, normally created on Agresso by an authorised officer, for an official order to be raised.
Official Order	An order for works, supplies or services, normally created on Agresso following the approval of a purchase requisition by an authorised officer.
Cash Advance	Is a specific cash loan made to an employee to enable them to purchase appropriate items/services in connection with their employment by the Council.
Petty Cash Float/Imprest account	An amount of money provided for the purpose of funding small cash payments incurred on behalf of the

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## PART 9 FINANCIAL PROCEDURE RULES

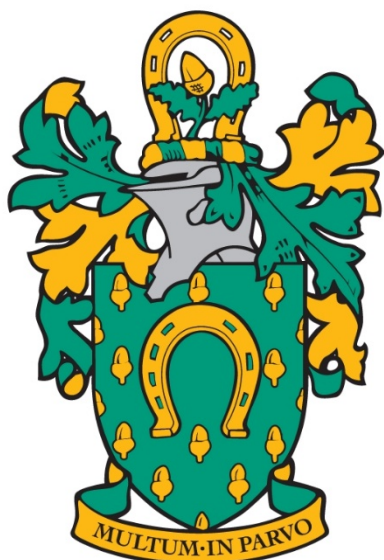
Council.

Petty/Imprest cash book A record of cash payments made from a petty cash/imprest account.

Cash Voucher A receipt or other document evidencing the making of a payment from petty cash float/imprest account, supplied by the vendor.

Asset Register A register of all significant assets owned by the Council, which is maintained by the Chief Finance Officer for statutory accounting purposes.

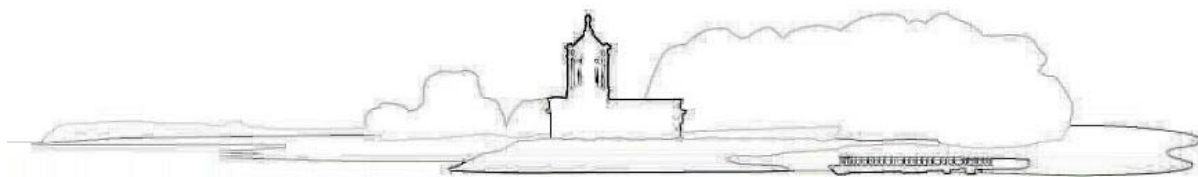
Inventory A record of all plant, machinery, vehicles, equipment and other assets under the custody of Divisional Directors, including assets the Council does not own outright. It should aid effective control of such assets and can support the management of risk of loss or damage.



# Rutland County Council

## PART 10 OF THE CONSTITUTION CONTRACTS AND GRANTS PROCEDURE RULES

Version and Policy number	New Rules – Version 1.6
Guardian	Strategic Director of Law and Governance
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## 1. Introduction

The purpose of these Contract Procedure Rules is to set out the principles, roles and processes involved in procurement at the Council. All procurements must comply with these rules, the Council's Financial Procedural Rules, Procurement Toolkit, the Officer Scheme of Delegation, English law, and European law in force in England and the duty of Best Value.

All procurements must realise value for money through the optimum combination of whole life costs and quality of outcome.

These Rules seek to protect the Council's reputation by minimising the risk of allegations of corruption, dishonesty and failure to meet legal obligations, as such the Rules must be followed in all procurement activities.

These Rules are supported by detailed practical guidance available in the Council's Procurement Toolkit located on the Rutland County Council section of the Welland Procurement Portal <http://wellandprocurement.org.uk/>

- 1.1 All procurement activities must be carried out in a fair, open, transparent, proportionate and non-discriminatory manner.
- 1.2 These Rules apply to contracts or agreements with external organisations where the Council pays for:
  - 1.2.1 Goods and/or Services.
  - 1.2.2 Works of any kind.
  - 1.2.3 Hire, rental or lease of equipment, material and/or plant.
- 1.3 These Rules do not apply in the following circumstances:
  - 1.3.1 The purchase or lease of property, land acquisition, interest in land, transaction in land or disposal. This does not extend to any goods, services or works contracts that may be required to make the land, existing buildings or immovable property ready for acquisition, disposal or leasing.
  - 1.3.2 Direct employment of permanent or fixed term employees, or of interim or agency staff. For the avoidance of doubt these Rules do apply to consultancy and employment agency contracts.
  - 1.3.3 Instructing barristers or solicitors provided those costs do not exceed the relevant - UK Procurement Threshold.
  - 1.3.4 The lending or borrowing of money by the Council.
  - 1.3.5 Contracts between Local Authorities as defined by Clause 12 of the Public Contract Regulations 2015 or Clause 17 of the Concession Contracts Regulations 2015.

- 1.4 The provision of Grants to external organisations is dealt with separately under Rules 19.1 to 19.8
- 1.5 Whilst 1.3.5 and 1.3.6 are not covered by these Rules, these contracts must be approved by the relevant Chief Officer, in consultation with the appropriate Portfolio Holder. The Public to Public Contract Exemption Request Form must be used.
- 1.6 When commissioning goods, services, and works through collaborative joint purchasing, where one of the other contracting authorities is acting as procurement lead, the Officer responsible must satisfy themselves that the procurement complies with all relevant directives, legislation, and guidance.

## **2. Roles and Responsibilities**

### Officers

- 2.1 Officers are individually responsible for ensuring that they fully understand and comply with all aspects of these Rules, failure to do so may result in disciplinary action.
- 2.2 The Responsible Officer for the procurement must comply with these Contract Procedure Rules, the Council's Procurement Toolkit, and the Financial Procedural Rules. The Officer is also responsible for ensuring that any Agents acting on behalf of the Council do so in compliance with these Rules and should seek written confirmation of their agreement.
- 2.3 The Officer must have regard to the guidance and template documentation in the Procurement Toolkit located on the Rutland County Council section of the Welland Procurement Portal.
- 2.4 The Officer must check whether a suitable Corporate Contract or other Publicly Available Contract/ Framework Agreement exists before seeking to let another Contract. Where such a contract does exist, its use should be considered.
- 2.5 The Officer must complete the relevant corporate forms and keep the records detailed in these Rules.
- 2.6 Where a procurement procedure is regulated by the Public Contract Regulations 2015 or the Concession Contract Regulations 2016, the Officer must contact Welland Procurement at the earliest opportunity before embarking on the procurement.
- 2.7 The Officer should take legal, financial, and other professional and technical advice.
- 2.8 The Officer must ensure that they have the correct authorisation to procure and award the contract.

- 2.9 The Officer must ensure that there is sufficient budget provision agreed and that they have the budget holder's approval, before embarking on the procurement.
- 2.10 Where any employee of the Council or of a Supplier may be affected by any transfer arrangement (TUPE), the Officer must ensure that the Transfer of Undertaking (Protection of Employment Regulations 2006 issues are considered and obtain relevant advice.
- 2.11 All contracts with a value at or above £5,000 p.a. must be added to the relevant Directorate's Contract Register to ensure compliance with the Transparency Regulations.
- 2.12 Officers must ensure that the contracts for which they are responsible are effectively managed and monitored to ensure they deliver the requirement as intended and to address any performance issues as soon as possible.
- 2.13 Where an Officer has a potential conflict of interest in a procurement, the Officer must declare this immediately to the relevant Director and Monitoring Officer. The Officer may be required to withdraw from the procurement process. Any Officer who fails to declare such a conflict of interest may be subject to disciplinary proceedings and sanctions and risks being prosecuted under the Bribery Act 2010.
- 2.14 Officers must:
- 2.14.1 Not disclose any confidential and commercially sensitive information to unauthorised persons;
  - 2.14.2 Achieve best value for money and consider opportunities for costs avoidance/waste reduction;
  - 2.14.3 Ensure that all equality issues are addressed (carrying out an equality impact assessment where required).
  - 2.14.4 Keep records as detailed in these Rules.
  - 2.14.5 Carry out due diligence on successful suppliers, both at Contract Award, and for the duration of the Contract.

#### Chief Officer

- 2.15 Chief Officers must ensure that they and their Officers comply with these Rules at all times.
- 2.16 Chief Officers must ensure that Value for Money is achieved in all procurements.
- 2.17 Chief Officers must ensure that they have in place a scheme of delegation that records in writing what action Officers are authorised to take under these Rules.

### **3. Prevention of Corruption/ Declaration of Interests**

## Officers

- 3.1 Officers shall behave in a manner consistent with Rule 2 with regards to declaring any potential conflict of interest or the receipt of a gifts/hospitality in line with the Council's Policy.
- 3.2 Officers are required to complete the Evaluator Conflict of Interest Declaration Form for each individual tender valued at or above £50,000 per annum that the Officer is involved with. This must be submitted in advance of the tender closing date to the relevant chair of the Evaluation Panel or the Responsible Officer for the tender.
- 3.3 Where an Officer has a potential conflict of interest within a procurement, the Officer must declare this immediately to the relevant Chief Officer and Monitoring Officer. The Officer may be required to withdraw from the procurement process. The conflict must be logged on the Officers' Register of Interests. Any Officer who fails to declare such a conflict of interest may be subject to disciplinary proceedings and sanctions and risks being prosecuted under the Bribery Act 2010.

## Members

- 3.4 Members will at all times act in a manner consistent with the Code of Conduct.

## Contract Provisions

- 3.5 All contracts must contain the right to terminate the contract in the event of a contractor offering any inducement, committing fraud, or committing an offence under the Prevention of Corruption Acts.
- 3.6 All contracts must require contractors to comply with the Council's Corporate Counter Fraud Strategy.

## **4. Exemptions to these Rules**

- 4.1 Where a procurement is valued above the relevant UK Procurement Threshold and there is no legislative exemption, the exemptions listed in this Section will not apply.
- 4.2 All exemptions must be authorised by the relevant Chief Officer, in consultation with the appropriate Portfolio Holder, subject to one or more of the following criteria being fulfilled:
  - 4.2.1 **Value for Money**: where proprietary or patented goods or services; or the requirement is of such a specialist nature that it can genuinely only be fulfilled by one person or organisation; or the compatibility with existing goods or services is required and/or where those existing goods or services can only be sourced from the same supplier; or there is clear

evidence that the procurement exercise will provide no additional value for money.

4.2.2 **Genuine emergencies:** critical preventative or remedial work where there is a real and imminent risk to the safety of people or property arising from hitherto unforeseen 'catastrophic' events or incidents, for example fire, bombing, landslide etc.

4.2.3 **Urgent Situations not of the Council's own making:** the urgency must have been reasonably unforeseeable (e.g. existing supplier going into liquidation) and genuinely be a case of time is of the essence. Urgency arising from the Council's own making (e.g. lack of planning) shall not justify an exemption. Where this exemption is used, a compliant procurement must be implemented as soon as possible.

4.2.4 **Collaborative/Joint Procurement:** where another contracting authority/public body is acting as the 'lead buyer' and provided that the Responsible Officer can demonstrate those arrangements comply with relevant Regulations and best practice.

4.2.5 **Contracts for the execution of either mandatory works or provision of goods or services which must be provided by Statutory Provider** other than the Council. This includes but is not limited to public utility companies and other legal authorities.

4.2.6 **Individual Social Care Placements** which are required to be approved via a separate approval process in accordance with Council's Standard Operating Protocol for the Placement of Individuals in Social Care & Special Educational Needs and Disability Services.

4.3 The original signed version of the Exemption Request Form must be held by the Responsible Officer.

4.4 Officers must keep a record of any Exemption under Rule 4 and the reasons for it, plus the negotiations surrounding the contract award.

4.5 Where the total value of the contract is £5,000 or more, the resultant contract must be added to the Contract Register to ensure compliance with Transparency Regulations.

4.6 An award notice is required on Contracts Finder for all Contracts with a total value of £20,800 or above.

## 5. Income Opportunities

5.1 Officers must seek legal and financial advice for any contracts which will generate income for the Council, including to determine if the Concession Contract Regulations 2016 applies.

## 6. Legal Involvement

- 6.1 The formal advice of the Monitoring Officer must be sought prior to award of the following contracts:
- 6.1.1 Where the total contract value including any extension period, exceeds £500,000;
  - 6.1.2 Those involving lease arrangements;
  - 6.1.3 Those which are complex or involve a recognisable risk;
  - 6.1.4 Where it is an extension within its terms to an existing contract that will bring the overall value over £500,000;
  - 6.1.5 Where it is a variation to an existing contract with no greater value than UK Thresholds;
  - 6.1.6 Where invoice payments are made to finance or factoring companies;
  - 6.1.7 Those involving the transfer of non-land assets;
  - 6.1.8 Those involving TUPE or pension arrangements; and/or
  - 6.1.9 Where it is proposed to use the contractor's own contract terms and conditions.

## **7. Contract Documentation**

- 7.1 All contracts must be in writing.
- 7.2 Where the contract is of a non-complex nature and the provisions in relation to the valuation allow the use of the Council's Short-Form Terms and Conditions for Goods and Services then a purchase order is an acceptable form of contract. This must include a clear description of the quotation, the terms agreed for delivery and a clear specification or description of the subject of the order together with the Short Form Terms & Conditions for Goods and Services.

## **8. Document Retention and Disposal**

- 8.1 Written records by must be kept in accordance with the Council's Document Retention Guidance for Procurement & Contracts, as detailed in the Procurement Toolkit.
- 8.2 Where the contract is valued below £50,000 p.a., the following records must be kept:
  - 8.2.1 Authorisation of Award Criteria (where relevant)
  - 8.2.2 Request for Quotation document
  - 8.2.3 Quotations received
  - 8.2.4 A written record of the reason if the lowest price is not accepted

- 8.2.5 A record of the Award approval
  - 8.2.6 Records of communications with the successful contractor during the procurement process.
- 8.3 Where the contract is valued at or above £50,000 p.a., the following records must be kept:
- 8.3.1 Any pre-tender market research and consultation
  - 8.3.2 Pre-procurement Business Case, plus the relevant Chief Officer or Cabinet approval
  - 8.3.3 The method for obtaining Tenders
  - 8.3.4 Procurement documents
  - 8.3.5 Tenders submissions received
  - 8.3.6 The Award Criteria in descending order of importance and evaluation methodology
  - 8.3.7 A written record of the evaluation, any tender clarification, bidder interview/presentation stage or post tender negotiation
  - 8.3.8 Contracting decision and the reasons for it
  - 8.3.9 A record of the Award approval
  - 8.3.10 Contract documents
  - 8.3.11 Performance Bonds/Parent Company Guarantee, where required
  - 8.3.12 On-going contract management and supplier performance monitoring mechanisms
  - 8.3.13 Records of communications with the successful contractor during the procurement process
  - 8.3.14 A Regulation 84(1) tender report, for contracts valued at or above the UK Procurement Threshold.

## **9. Procurements valued under £5,000 p.a.**

- 9.1 Where the contract is valued below £5,000 p.a., the Contracts may be placed by direct negotiation with one or more supplier using a Council Purchasing Card (P-Card), in accordance with the Council's Purchasing Card Policy and the Financial Procedural Rules.
- 9.2 No contract will be procured under this provision shall be greater in value than £25,000 and/or 5 years over the total life of the contract (whichever is the lesser).

## **10. Procurements valued between £5,000 p.a. to £24,999 p.a.**

- 10.1 Where the contract is valued between £5,000 and £24,999 p.a., Officers are required to seek at least one written quotation. Value for money remains a primary objective and so Officers may decide to seek more than one quotation to ensure that objective is achieved.
- 10.2 No contract will be procured under this provision shall be greater in value than £50,000 and/or 5 years over the total life of the contract (whichever is the lesser).

- 10.3 In the case of works, pre agreed hourly/daily rates are acceptable, provided that the total cumulative value of spend using these rates does not exceed UK Procurement Thresholds over the full life of the project.

#### Receiving the Quotation

- 10.4 Quotations of this value can be submitted via email or via the electronic tendering system ProContract.
- 10.5 For Quotes received via ProContract, a representative of Welland Procurement will be responsible for unsealing the quotes and releasing them to the Responsible Officer. It shall be the responsibility of the Responsible Officer to record details of all quotes received within the Quotation Register for the relevant Directorate.
- 10.6 The quotation must be received before any order is processed and must include the following information (where relevant):
- 10.6.1 A description of the goods, services or works to be supplied;
  - 10.6.2 When and where they will be supplied;
  - 10.6.3 The value of the requirements;
  - 10.6.4 Payment terms.

#### Awarding a Contract

- 10.7 The contract award must be authorised by the relevant budget holder using Section 2 of the Award Criteria & Award Authorisation Form.
- 10.8 The Council's Short Form Terms & Conditions for Goods and Services should usually be used unless deemed inappropriate by the budget holder.
- 10.9 Officers must have a purchase order in line with Financial Procedure Rules.
- 10.10 The Officer must keep the following records:
- 10.10.1 Request for Quotation Template
  - 10.10.2 Quotation received
  - 10.10.3 Authorisation of Award Form
  - 10.10.4 Records of communications with the successful contractor during the procurement process
- 10.11 If more than one quotation is sought, all bidders must be notified of the Award decision simultaneously in writing by the Responsible Officer (either via email or via ProContract if used), as to whether or not their bid was successful.
- 10.12 Where more than one quotation is received, if an unsuccessful bidder makes a written request to the Council for a further debrief in relation to the contract award decision, the Responsible Officer must provide the appropriate information within 15 calendar days from receipt of the written request. The confidentiality of quotation responses and the identity of other bidders must be preserved at all times, and information about one bidder's response must not be disclosed to another bidder. Under no circumstances must the Responsible



Officer provide a verbal debriefing to any bidder as part of the procurement process.

- 10.13 The Responsible Officer shall undertake due diligence checks on the successful bidder(s) and any organisation relied upon to meet the winning supplier's selection criteria, to evidence their fulfilment of the selection criteria, and that there are no grounds for exclusion.
- 10.14 The Responsible Officer' shall carry out this due diligence at Contract Award and for the duration of the Contract.

## **11. Procurements valued between £25,000 p.a. and £49,999 p.a.**

- 11.1 Where the contract is valued between £25,000 p.a. and £49,999 p.a. the Responsible Officer must either:

11.1.1 Obtain a quote under one of the Council's corporate contracts;  
a) Officers should refer to section 15 of these Rules (Corporate Contracts)

or

11.1.2 Place an order with a supplier under a framework agreement;  
a) Where a suitable framework agreement exists, the Officer may use the framework if the Council is mentioned as a potential purchaser under the framework agreement. Officers must follow the call-off procedure set out in the framework agreement (either direct award without competition or a further competition). Welland Procurement can advise Officers on appropriate framework agreements and the correct call-off procedure to use. Officers should refer to paragraph 16 of these Rules (Framework Agreement).

11.1.3 Obtain three (3) written quotes from other suppliers. At least one of the suppliers invited to submit a quotation should be local, where local means in the sub-region or region.

11.1.4 Where fewer than 3 potential suppliers can be identified, no formal request for Exemption is required, provided the Officer keeps a written record of the reason for it and all potential suppliers should be invited to quote. It is accepted that the Officer may receive fewer than 3 quotations even where 3 or more suppliers have been invited to quote.

- 11.2 No contract will be procured under this provision shall be greater in value than £100,000 and/or 5 years over the total life of the contract (whichever is the lesser).

- 11.3 When a quotation is sought, the Request for Quotation template document must be used. In any case the criteria for selecting the Most Economically Advantageous Quotation must be established before the quotations are invited and be made clear in the procurement documentation.

- 11.4 If there is clear justification that the contract opportunity is required to be advertised, for example because:
- 11.4.1 The relevant Officer cannot immediately identify 3 potential suppliers to invite to quote; and/or
  - 11.4.2 The procurement opportunity is either politically sensitive or high profile (as determined by the Responsible Officer)
- then it may be advertised on a local portal (including the Council's website). It must be advertised via Welland Procurement on Contracts Finder within 24 hours of the time when it was first advertised.

#### Receiving the Quotation

- 11.5 Quotations must be submitted to the Responsible Officer—via email or the Electronic Tendering System, ProContract, hosted by Welland Procurement. Quotations received by other means must be rejected.
- 11.6 It shall be the responsibility of the relevant Officer to safeguard all email Quotations received by the Council, until the appointed time for opening. Each Quotation must be:
- 11.6.1 Suitably recorded so as to subsequently verify the date and precise time it was received;
  - 11.6.2 Adequately protected immediately on receipt, to guard against amendments to its contents;
  - 11.6.3 Recorded in the Quotation Register within the relevant Directorate;
  - 11.6.4 Opened at the same time once the closing time and date for their submission has expired. Quotations must be opened in the presence of two Officers.
- 11.7 For Quotes received via ProContract, a representative of Welland Procurement will be responsible for unsealing the quotes and releasing them to the Responsible Officer. It shall be the responsibility of the Responsible Officer to record details of all quotes received within the Quotation Register for the relevant Directorate.
- 11.8 Evaluation of the quotations received must be carried out using the evaluation criteria identified in the procurement documentation. Clarification questions may be asked where responses would not result in a material change to the bid received.

#### Awarding a Contract

- 11.9 The relevant Chief Officer should select the quotation that offers the best value for money and meets due diligence checks.
- 11.10 The contract award must be authorised by the relevant Chief Officer using Section 2 of the Award Criteria & Award Authorisation Form.
- 11.11 The Council's Short Form Terms & Conditions for Goods and Services must be used unless deemed inappropriate by the Responsible Officer. The relevant

Chief Officer must authorise use of any alternative set of Contract Terms and Conditions.

- 11.12 Officers must have a Purchase Order in line with Financial Procedure Rules.
- 11.13 A Contracts Finder Award Notice must be advertised by Welland Procurement following the award of any Contract or Framework Agreement valued at or above £20,800.
- 11.14 All bidders must be notified of the Award decision simultaneously in writing by the Responsible Officer (either via email or ProContract if used), as to whether or not their bid was successful.
- 11.15 If an unsuccessful bidder makes a written request to the Council for a further debrief in relation to the contract award decision, the Responsible Officer must provide the appropriate information within 15 calendar days from receipt of the written request. The confidentiality of quotation responses and the identity of other bidders must be preserved at all times, and information about one bidder's response must not be disclosed to another bidder. Under no circumstances must the Responsible Officer provide a verbal debriefing to any bidder as part of the procurement process.

#### Post Award

- 11.14 The Budget Holder must keep the following records:
  - 11.14.1 Request for Quotation Template
  - 11.14.2 Quotations received
  - 11.14.3 Authorisation of Award Form
  - 11.14.4 Records of communications with the successful contractor during the procurement process

#### **12. Procurements Valued between £50,000 p.a. and the Current Goods and Services - UK Procurement Threshold**

- 12.1 Where the contract is valued between £50,000 p.a. and the current goods and services UK Procurement Threshold. Responsible Officers must procure in line with Rule 12.7. All interested suppliers are eligible to submit a Tender; no pre-qualification of suppliers is permitted.
- 12.2 Contracts of this value must be managed using the Electronic Tendering System hosted by Welland Procurement.
- 12.3 For Contracts valued above £50,000 p.a. Officer must consider what wider economic, social and environmental benefits (Social Value) are available to the local community through the Contract being procured.

#### Prior to obtaining Tenders

- 12.4 Officers must obtain the approval of the relevant Chief Officer and Cabinet prior to embarking on the procurement.

- 12.5 A contract risk register must be drawn up by the Responsible Officer for the tendering, award, and management of the contract.
- 12.6 Officers should complete a Pre-procurement Business Case to provide additional clarification to inform the procurement proposal and support the authorisation/approval process, where the nature of the procurement is considered strategic, complex and/or high risk.

### How to Invite Tenders

12.7 Responsible Officers must either:

12.7.1 Procure the contract requirements through one of the Council's corporate contracts.

- (a) Officers should refer to section 15 of these Rules (Corporate Contracts).
- (b) If an approved supplier under an existing corporate contract can meet the contract requirements, they should be instructed them directly.
- (c) Where a supplier under a Corporate Contract procures goods, services, or works on the Council's behalf they must follow the tendering procedures detailed in this section.
- (d) Where Responsible Officers do not wish to procure through a corporate contract a written record of the decision must be kept.

12.7.2 Place an order with a supplier under a framework agreement.

- (a) Where a suitable framework agreement exists, the Officer may use that framework if the Council is mentioned as a potential purchaser. Officers must follow the call-off procedure set out in the framework agreement (either direct award without competition or a further competition). Welland Procurement can advise Officers on appropriate framework agreements and the correct call-off procedure to use. Officers should refer to paragraph 16 of these Rules (Framework Agreement).

12.7.3 Where you need to source your requirements on the open market, a single stage/open tender process must be completed.

- (a) Officers must consider how to achieve the Most Economically Advantageous Tender using the Invitation to Tender template and ensure that there is sufficient detail to enable the submission of competitive offers.
- (b) Potential bidders must be given sufficient time to prepare and submit their tender, consistent with the urgency and/or complexity of the contract requirements.

- (c) Where, for whatever reason, additional tender information is not supplied to potential bidders at least 6 days before the fixed time/date for receipt of tenders, the Responsible Officer shall extend the time limit for receipt of tenders so that all potential bidders may be aware of all the information needed to produce their Tender. The length of any extension shall be proportionate to the importance of the additional information provided.

- 12.8 The Council's Open Tender documents must be used. The Responsible Officer must ensure that all relevant procurement documents are finalised before the procurement is advertised.
- 12.9 The evaluation criteria and methodology set out in the procurement documentation must:
  - 12.9.1 Be relevant to the subject matter of the goods, services or works to be provided under the contract and proportionate in all circumstances, and
  - 12.9.2 Secure an outcome which will provide best value for money for the Council, based on whole life costs.
- 12.10 The tendering procedure will be managed using the Electronic Tendering system hosted by Welland Procurement unless otherwise dictated by the framework.

#### Advertising

- 12.11 The procurement opportunity must be advertised on Contracts Finder by Welland Procurement.
- 12.12 The procurement may also be advertised on other portals (East Midlands Tenders Portal). Welland Procurement is responsible for managing advertising. In all instances Officers must use the Advertising Template and submit it to Welland Procurement.
- 12.13 If the procurement is likely to be of interest locally, an advert maybe placed on the Council website.
- 12.14 The advertisement shall contain details of the proposed contract and specify a time limit within which interested parties may express an interest in tendering for the contract. The full set of procurement documentation must be made electronically available at the time the tender is advertised:
  - 12.14.1 Specification and Service Levels
  - 12.14.2 Contract terms and conditions
  - 12.14.3 Weighting evaluation criteria and methodology
  - 12.14.4 Standard Suitability Questions (the suitability questions must not be modified, without advice from Welland Procurement
  - 12.14.5 Form of Tender and Collusive Tendering Certificate.
  - 12.15.6 TUPE information where relevant.
- 12.15 If tendering to create a Framework Agreement the advert published must also indicate:

- 12.15.1 That it is a framework agreement which is being tendered
- 12.15.2 The duration of the framework agreement
- 12.15.3 Whether the framework is divided into lots
- 12.15.4 The expected maximum number of contractors to be awarded onto the framework and/or onto each lot
- 12.15.5 The estimated total value of the contracts to be covered by the framework period, including any extension
- 12.15.6 The award criteria for choosing framework contractors and the subsequent criteria for placing call-off orders.

### Receiving the Tenders

- 12.16 Tenders shall be received via the electronic tendering system, ProContract, where a representative of Welland Procurement will be responsible for unsealing the tenders and releasing to the Responsible Officer. The Responsible Officer must maintain an independent corporate Tender log.
- 12.17 Tenders received after the fixed closing date and time or Tenders which are not submitted in accordance with these Rules will be disqualified, unless agreed otherwise by the Monitoring Officer.
- 12.18 Tenders must be evaluated in accordance with the advertised weighted evaluation criteria. Clarification questions may be asked as long as the response would not have the effect of materially changing the tender received.
- 12.19 When an abnormally low bid is submitted, the Responsible Officer shall require the bidder to explain in writing the price or costs proposed and may only reject the Tender where the explanation is unsatisfactory. Where it is established that the Tender is low due to breaches of environmental, social or labour law, the Responsible Officer must reject the Tender following consultation with the relevant Chief Officer.

### Awarding a Contract

- 12.20 The bidder with the highest evaluation score will be awarded the contract. If this is not the case, the advice of the Welland Procurement must be sought prior to award.
- 12.21 The Responsible Officer shall undertake due diligence checks on the successful bidder(s) and any organisation relied upon to meet the winning supplier's selection criteria, to evidence their fulfilment of the selection criteria, and that there are no grounds for exclusion.
- 12.22 The Responsible Officer shall carry out this due diligence at Contract Award and for the duration of the Contract.
- 12.23 The contract award must be authorised by:
  - a) the relevant Chief Officer in consultation with the appropriate Portfolio Holder, where Cabinet has granted delegated authority for 'authorisation of

award at the time that Cabinet approval to embark on the procurement was granted; or

b) Cabinet where no such delegated authority has been granted.

12.24 Where Rule 12.23 applies, the contract award must be authorised using the Contract Award Authorisation Form.

12.25 All bidders must be notified of the Award decision simultaneously in writing via ProContract by the Responsible Officer whether or not their bid was successful.

12.26 If an unsuccessful bidder makes a written request to the Council for a further debrief in relation to the contract award, the Responsible Officer must provide the appropriate information within 15 calendar days from receipt of the written request. The confidentiality of tender responses and the identity of other bidders must be preserved at all times, and information about one bidder's response must not be disclosed to another bidder. Under no circumstances must the Responsible Officer provide a verbal debriefing to any bidder as part of the procurement process.

12.27 The Council's Corporate Contract Terms & Conditions for Goods and Services must be used to support contracts of this value. An Officer must seek the authorisation of the relevant –Chief Officer in consultation with the Monitoring Officer, in order to alter the terms of the Council's Corporate Contract Terms & Conditions and/or use an alternative industry-specific Terms & Conditions.

12.28 The Contract Terms & Conditions must be signed by the relevant Chief Officer. Any contract resulting from such a tender process shall be executed as a standard contract, unless valued at £100,000 p.a. or above where it must be sealed as a Deed unless authority is given by the Monitoring Officer to execute as a contract.

### Post Award

12.29 The Officer must keep the following records:

12.29.1 Any pre-tender market research and consultation

12.29.2 Pre-procurement Cabinet approval (including Pre-procurement Business Case, where completed)

12.29.3 The method of obtaining tenders

12.29.4 Tender documents produced by the Council

12.29.5 Tenders received from bidders. The successful tender should be retained for at least the life of the contract. Unsuccessful tenders should be retained for the first 12 months of the contract

12.29.6 A written record of the evaluation, including any tender clarification, bidder interview/presentation stage or post tender negotiation

12.29.7 Any contracting decision and the reasons for it

12.29.8 A record of the Award approval

12.29.9 A signed copy of the Contract document, which should be retained for the life of the contract and in normal circumstances for 6 years thereafter

12.29.10 Performance Bonds/Parent Company Guarantee, where required

- 12.29.11 Records of communications to and from bidders during the procurement process
- 12.29.12 On-going contract management and supplier performance monitoring mechanisms
- 12.30 The Responsible Officer is responsible for the subsequent storage and safe keeping of the signed contract.
- 12.31 An award notice is required on Contracts Finder, Welland Procurement is responsible for such award notices.
- 12.32 The Responsible Officer must add the Contract to the relevant directorate's Contract Register to ensure compliance with Transparency Regulations.
- 13. Procurements for Works Contracts Valued between the Goods and Services - UK Procurement Threshold and the Works - UK Procurement Threshold; AND Procurements for Light Touch Contracts Valued between the Goods and Services – UK Procurement Threshold and the Light Touch – UK Procurement Threshold**
- 13.1 For Works contracts valued between the Goods and Services - UK Procurement Threshold and the Works - UK Procurement Threshold, the Officer can choose either a **single stage/open tender process** or a **two stage/restricted tender process**.
- 13.2 For Light Touch contracts valued between the Goods and Services – UK Procurement Threshold and the Light Touch - UK Procurement Threshold, the Officer can choose either a **single stage/open tender process** or a **two stage/restricted tender process**.
- 13.3 Officers must seek formal advice from Welland Procurement prior embarking on the procurement and throughout the process.
- 13.4 Officer must consider what wider economic, social and environmental benefits are available to the local community through the Contract being procured.

Prior to obtaining your Tenders

- 13.5 Officers must obtain Cabinet approval (using the Procurement Cabinet Report) prior to embarking on the procurement. If you have not already obtained budgetary approval where the total value of the Contract is at or above £1,000,000 (one million), this will need to be obtained from Council prior to seeking Cabinet approval to embark upon the procurement.
- 13.6 Officers must complete a contract risk register for the tendering, award and management of the contract, using the Council's Contract Risk Assessment Tool.



- 13.7 A Pre-procurement Business Case is required to support the procurement proposal and brief the relevant Chief Officer and appropriate Portfolio Holder prior to Cabinet. The business case must be presented within sufficient time to enable comments to be taken into consideration and must set out relevant justification for undertaking the procurement.
- 13.8 For contracts valued £250,000 and above, the Council may require the contractor to provide a Performance Bond or a Parent Company Guarantee, or a suitable financial deposit for the due performance of the contract according to the nature of the contract. Performance Bonds are usually required where there is a parent company, the contract value is high and/or there is financial risk to the Council in the opinion of the Responsible Officer and/ or the relevant Chief Officer.

### How to Invite Tenders

- 13.9 Officers may choose either a **single stage/Open tender process** or a **two stage/Restricted tender process**, using an electronic tendering system.
- 13.9.1 Officers should consider how they will get the Most Economically Advantageous Tender using the Invitation to Tender template and ensure that there is sufficient detail to enable the submission of competitive offers.
- 13.9.2 Potential bidders must be given sufficient time to prepare and submit their tender, consistent with the urgency and/or complexity of the contract requirements.
- 13.9.3 Where, for whatever reason, additional tender information is not supplied to potential bidders at least 6 days before the fixed time/date for receipt of tenders, the Responsible Officer shall extend the time limit for receipt of tenders so that all potential bidders may be aware of all the information needed to produce their Tender. The length of any extension shall be proportionate to the importance of the additional information provided.
- 13.10 Either the Open Tender template or Restricted Tender template must be used. The Officer must ensure that all relevant procurement documents are finalised before the procurement is advertised.
- 13.11 The evaluation criteria and methodology set out in the procurement documentation must:
- 13.11.1 Be relevant to the subject matter of the goods, services or works to be provided under the contract and proportionate in all circumstances, and
- 13.11.2 Secure an outcome which will provide best value for money for the Council, based on whole life costs.
- 13.13 The tendering procedure will be managed using an electronic tendering system, the Officer must therefore contact Welland Procurement to access that system.

## Advertising

- 13.14 The procurement opportunity must be advertised on Contracts Finder, Welland Procurement is responsible for managing this advertising.
- 13.15 The procurement may also be advertised on other portal (East Midlands Tenders Portal, Welland Procurement is responsible for managing this advertising on your behalf. In all instances Officers must use the Advertising Template and submit it to Welland Procurement Unit.
- 13.16 The advertisement shall contain details of the proposed contract and specify a time limit within which interested parties may express an interest in tendering for the contract. The full set of procurement documentation must be made available electronically at the time that the tender is advertised:
- 13.16.1 Specification and Service Levels
  - 13.16.2 Terms and Conditions of contract
  - 13.16.3 Weighting evaluation criteria and methodology
  - 13.16.4 Standard Suitability Questions (the suitability questions must not be modified without advice from Welland Procurement
  - 13.16.5 Form of Tender and Collusive Tendering Certificate.
  - 13.16.6 TUPE information where relevant.
- 13.17 If tendering to create a Framework Agreement the advert published must indicate:
- 13.17.1 That it is a framework agreement which is being tendered
  - 13.17.2 The duration of the framework agreement
  - 13.17.3 Whether the framework is divided into lots
  - 13.17.4 The expected maximum number of contractors to be awarded onto the framework and/or onto each lot
  - 13.17.5 The estimated total value of the contracts to be covered by the framework period, including any extension
  - 13.17.6 The award criteria for choosing framework contractors and the subsequent criteria for placing call-off orders.

## Receiving the Tenders

- 13.18 Tenders shall be received via the electronic tendering system, ProContract, where a representative of Welland Procurement will be responsible for unsealing the tenders and releasing to the Responsible Officer. The Responsible Officer must maintain an independent corporate tender log.
- 13.19 Tenders received after the fixed closing date and time or Tenders which are not submitted in accordance with these Rules will be disqualified, unless otherwise agreed by the Monitoring Officer.
- 13.20 Tenders must be evaluated in accordance with the advertised weighted evaluation criteria. Clarification questions may be asked as long as the response would not have the effect of materially changing the tender received.

13.21 When an abnormally low bid is submitted, the Responsible Officer shall require the bidder to explain in writing the price or costs proposed and may only reject the Tender where the explanation is unsatisfactory. Where it is established that the Tender is low due to breaches of environmental, social or labour law, the Responsible Officer must reject the Tender following consultation with the relevant Chief Officer.

#### Awarding a Contract

13.22 The bidder with the highest evaluation score will be awarded the contract. If this is not the case, the advice of the Welland Procurement must be sought prior to award.

13.23 The Responsible Officer shall undertake due diligence checks on the successful bidder(s) and any organisation relied upon to meet the winning supplier's selection criteria, to evidence their fulfilment of the selection criteria, and that there are no grounds for exclusion.

13.24 The Responsible Officer shall carry out this due diligence at Contract Award and for the duration of the Contract.

13.25 The contract award must be authorised by:

- a) the relevant Chief Officer in consultation with the appropriate Portfolio Holder, where Cabinet has granted delegated authority for 'authorisation of award at the time that Cabinet approval to embark on the procurement was granted; or
- b) Cabinet where no such delegated authority has been granted; or
- c) Council where the total value of the Contract is at or above £1,000,000 (one million).

13.26 Where Rule 13.24 (a) applies, the contract award must be authorised using the Contract Award Authorisation Form.

13.27 All bidders must be notified of the Award decision simultaneously in writing via ProContract by the Responsible Officer whether or not their bid was successful.

13.28 If an unsuccessful bidder makes a written request to the Council for a further debrief in relation to the contract award, the Responsible Officer must provide the appropriate information within 15 calendar days from receipt of the written request. The confidentiality of tender responses and the identity of other bidders must be preserved at all times, and information about one bidder's response must not be disclosed to another bidder. Under no circumstances must the Responsible Officer provide a verbal debriefing to any bidder as part of the procurement process.

13.29 The Council's Corporate Contract Terms & Conditions for Goods and Services must be used to support contracts of this value. An Officer must seek the authorisation of the relevant Chief Officer in consultation with the Monitoring Officer, to alter the terms of the Council's Corporate Contract Terms & Conditions and/or use an alternative industry-specific Terms & Conditions.

13.30 The contract terms and conditions must be signed by the Council's Chief Executive. Any contract resulting from such a tender process must be executed as a Deed under seal.

#### Post Award

13.31 The Officer must keep the following records:

- 13.-31.1 Any pre-tender market research and consultation
- 13.-31.2 Pre-procurement Cabinet approval (including Pre-procurement Business Case)
- 13.-31.3 The method of obtaining tenders
- 13.-31.4 Tender documents produced by the Council
- 13.-31.5 Tenders received from bidders. The successful tender should be retained for at least the life of the contract. Unsuccessful tenders should be retained for the first 12 months of the contract
- 13.-31.6 A written record of the evaluation, including any tender clarification, bidder interview/presentation stage or post tender negotiation
- 13.-31.7 Any contracting decision and the reasons for it
- 13.-31.8 A record of the Award approval
- 13.-31.9 A signed copy of the Contract document, which should be retained for the life of the contract and in normal circumstances for 12 years thereafter
- 13.-31.10 Performance Bonds/Parent Company Guarantee (Contracts valued above £250,000), where required
- 13.-31.11 Records of communications to and from bidders during the procurement process
- 13.-31.12 On-going contract management and supplier performance monitoring mechanisms

13.32 The Responsible Officer is responsible for the subsequent storage and safe keeping of the signed contract.

13.33 An award notice is required on Contracts Finder, Welland Procurement is responsible for such award notices.

13.34 The Responsible Officer must add the Contract to the relevant directorate's Contract Register to ensure compliance with Transparency Regulations.

#### **14. Procurements Valued Above the Relevant UK Procurement Threshold**

14.1 Where the anticipated value of the contract exceeds the relevant **UK** Procurement threshold, the formal advice of Welland Procurement must be sought as early as possible and in any case before any procurement activity takes place.

#### Prior to obtaining your Tenders

14.2 Officers must obtain Cabinet approval (using the Procurement Cabinet Report) prior to embarking on the procurement. If budgetary approval has not already

been obtained where the total value of the Contract is at or above £1,000,000 (one million), this will need to be obtained from Council prior to seeking Cabinet approval to embark upon the procurement.

- 14.3 Officers must complete a contract risk register for the tendering, award and management of the contract, using the Council's Contract Risk Assessment Tool.
- 14.4 A Pre-procurement Business Case is required to support the procurement proposal and brief the relevant Chief Officer and appropriate Portfolio Holder prior to Cabinet. The business case must be presented within sufficient time to enable comments to be taken into consideration and must set out relevant justification for undertaking the procurement.
- 14.5 For contracts valued £250,000 and above, the Council may require the contractor to provide a Performance Bond or a Parent Company Guarantee, or a suitable financial deposit for the due performance of the contract according to the nature of the contract. Performance Bonds are usually required where there is a parent company, the contract value is high and/or there is financial risk to the Council in the opinion of the Responsible Officer and/ or the relevant Chief Officer.

#### How to Invite Tenders

- 14.6 Officers may choose either a **single stage/Open tender process** or a **two stage/Restricted tender process** or a method defined by the Public Contract Regulations 2015, using an electronic tendering system.
  - 14.6.1 Officers should consider how they will get the Most Economically Advantageous Tender using the Invitation to Tender template and ensure that there is sufficient detail to enable the submission of competitive offers.
  - 14.6.2 Potential bidders must be given sufficient time to prepare and submit their tender, consistent with the urgency and/or complexity of the contract requirements.
  - 14.6.3 Where, for whatever reason, additional tender information is not supplied to potential bidders at least 6 days before the fixed time/date for receipt of tenders, the Responsible Officer shall extend the time limit for receipt of tenders so that all potential bidders may be aware of all the information needed to produce their Tender. The length of any extension shall be proportionate to the importance of the additional information provided.
- 14.7 Welland Procurement will provide appropriate Tender template documentation, based on the relevant procurement procedure being used. The Officer must ensure that the Government's mandatory 'Standard Selection Questionnaire' is used. The Questionnaire should be used in the single stage/Open tender process to test that suppliers can meet the minimum levels of suitability; or in a two stage/Restricted tender process to pre-qualify suppliers based on their

financial standing and technical or professional capability, prior to be invited to tender.

- 14.8 The evaluation criteria and methodology set out in the procurement documentation must:
- 14.8.1 Be relevant to the subject matter of the goods, services or works to be provided under the contract and proportionate in all circumstances, and
  - 14.8.2 Secure an outcome which will provide best value for money for the Council, based on whole life costs.
- 14.9 The Officer must ensure that all relevant procurement documents are finalised before the procurement is advertised.
- 14.10 Contracts of this value must be managed using the Electronic Tendering System hosted by Welland Procurement.

### Advertising

- 14.11 The procurement opportunity must be advertised through UK's Find a Tender Service (FTS) and Contracts Finder, Welland Procurement is responsible for managing this advertising.
- 14.12 The procurement may also be advertised on other portal (East Midlands Tenders Portal), Welland Procurement is also responsible for managing this advertising. In all instances Officers must use the Advertising Template and submit it to Welland Procurement.
- 14.13 Welland Procurement shall ensure that required national advertising through Contracts Finder and East Midlands Tenders Portal does not take place before the Find a Tender Service (FTS) Opportunity Notice is published. The FTS Notice shall be published on Contracts Finder within 24 hours of it first appearing in FTS.
- 14.14 The advertisement shall contain details of the proposed contract and specify a time limit within which interested parties may express an interest in tendering for the contract. The full set of procurement documentation must be made available electronically at the time that the tender is advertised:
- 14.14.1 Specification and Service Levels
  - 14.14.2 Terms and Conditions of contract
  - 14.14.3 Weighting evaluation criteria and methodology
  - 14.14.4 The Government's Standard Selection Questionnaire (this mandatory Questionnaire must not be modified, although additional 'contract specific questions' may be asked.
  - 14.14.5 Form of Tender and Collusive Tendering Certificate
  - 14.14.6 TUPE information where relevant
- 14.15 If tendering to create a Framework Agreement the advert published must indicate:
- 14.15.1 That it is a framework agreement which is being tendered
  - 14.15.2 The duration of the framework agreement

- 14.15.3 Whether the framework is divided into lots
- 14.15.4 The expected maximum number of contractors to be awarded onto the framework and/or onto each lot
- 14.15.5 The estimated total value of the contracts to be covered by the framework period, including any extension
- 14.15.6 The award criteria for choosing framework contractors and the subsequent criteria for placing call-off orders.

### Receiving the Tenders

- 14.16 Tenders shall be received via the electronic tendering system, ProContract, where a representative of Welland Procurement will be responsible for unsealing the tenders and releasing and releasing to the Responsible Officer. The Responsible Officer must maintain an independent corporate Tender log.
- 14.17 Tenders received after the fixed closing date and time or Tenders which are not submitted in accordance with these Rules will be disqualified, unless otherwise agreed by the Monitoring Officer.
- 14.18 Tenders must be evaluated in accordance with the advertised weighted evaluation criteria. Clarification questions may be asked as long as the response would not have the effect of materially changing the tender received.
- 14.19 When an abnormally low bid is submitted, the Responsible Officer shall require the bidder to explain in writing the price or costs proposed and may only reject the Tender where the explanation is unsatisfactory. Where it is established that the Tender is low due to breaches of environmental, social, or labour law, the Responsible Officer must reject the Tender following consultation with the relevant Chief Officer.

### Awarding a Contract

- 14.20 The bidder with the highest evaluation score will be awarded the contract. If this is not the case, the advice of the Welland Procurement must be sought prior to award.
- 14.21 The Responsible Officer shall undertake due diligence checks on the successful bidder(s) and any organisation relied upon to meet the winning supplier's selection criteria, to evidence their fulfilment of the selection criteria, and that there are no grounds for exclusion.
- 14.22 The Responsible Officer shall carry out this due diligence at Contract Award and for the duration of the Contract.
- 14.23 The contract award must be authorised:
  - a by the relevant Chief Officer in consultation with the appropriate Portfolio Holder, where Cabinet has granted delegated authority for 'authorisation of award' at the time that Cabinet approval to embark on the procurement was granted; or
  - b by Cabinet where no such delegated authority has been granted; or

c by Council where the total value of the Contract is at or above £1,000,000 (one million).

- 14.24 Where Rule 14.22 (a) applies, the contract award must be authorised using the Contract Award Authorisation Form.
- 14.25 All bidders must be notified of the Award decision simultaneously in writing via ProContract by the Responsible Officer whether or not their bid was successful. The content of the 'Intention to Award' letter (standstill notice) shall take a specific format to be compliant with the Public Contract Regulations 2015 and reduce the risk of legal challenge, so Welland Procurement must be involved in drafting and/or reviewing these letters before they are issued to all bidders.
- 14.26 A minimum of 10 calendar day mandatory standstill period must be allowed after announcing the intention to award, to provide unsuccessful Bidders the opportunity within that period to challenge the award decision before the contract is formally awarded.
- 14.27 The standstill period is expected to end at midnight on the end of the 10th/15th calendar day, after the day on which the notice was transmitted, provided that this day falls on a working day. If this day falls on a weekend, then the standstill period will end midnight on the next available working day. After which a 'Confirmation of Award' letter may be issued to all bidders.
- 14.28 If an unsuccessful bidder makes a written request to the Council for a further debrief in relation to the contract award, the Responsible Officer must provide the appropriate information within 15 calendar days from receipt of the written request. The confidentiality of tender responses and the identity of other bidders must be preserved at all times, and information about one bidder's response must not be disclosed to another bidder. Under no circumstances must the Responsible Officer provide a verbal debriefing to any bidder as part of the procurement process.
- 14.29 The Council's Corporate Contract Terms & Conditions for Goods and Services must be used to support contracts of this value. An Officer must seek the authorisation of the relevant Chief Officer in consultation with the Monitoring Officer, to alter the terms of the Council's Corporate Contract Terms & Conditions and/or use an alternative industry-specific Terms & Conditions.
- 14.30 Any contract resulting from such a tender process must be executed as a Deed.

#### Regulation 84(1) tender report

- 14.31 Where the total Contract value is at or above the relevant UK Procurement threshold, Welland Procurement will produce a Regulation 84(1) tender report to meet the Council's legal obligations under the Public Contract Regulations 2015. This provides details of the tender and the evaluation process, including justification for decisions taken during the procurement process and the final award recommendation.



## Post Award

- 14.32 The Officer must keep the following records:
- 14.32.1 Any pre-tender market research and consultation
  - 14.32.2 Pre-procurement Cabinet approval (including Pre-procurement Business Case)
  - 14.32.3 The method of obtaining tenders
  - 14.32.4 Tender documents produced by the Council
  - 14.32.5 Tenders received from bidders. The successful tender should be retained for at least the life of the contract. Unsuccessful tenders should be retained for the first 12 months of the contract
  - 14.32.6 A written record of the evaluation, including any tender clarification, bidder interview/presentation stage or post tender negotiation
  - 14.32.7 Any contracting decision and the reasons for it
  - 14.32.8 A record of the Award approval
  - 14.32.9 A signed copy of the Contract document, which should be retained for the life of the contract and in normal circumstances for 12 years thereafter
  - 14.32.10 Performance Bonds/Parent Company Guarantee (Contracts valued above £250,000), where required
  - 14.32.11 Records of communications to and from bidders during the procurement process
  - 14.32.12 On-going contract management and supplier performance monitoring mechanisms
  - 14.32.13 Regulation 84(1) tender report.
- 14.33 The Officer is responsible for the subsequent storage and safe keeping of the signed contract.
- 14.34 An FTS Contract Award Notice shall be published by Welland Procurement, in addition to the Contracts Finder Award Notice. The FTS Contract Award Notice must be published within a reasonable time (no later than 90 calendar days after the award date).
- 14.34 Where the award notice is published via the Find a Tender Service, Welland Procurement shall not publish the award notice on Contracts Finder it first appears on FTS.
- 14.35 The publication of information in the award notice must adhere to the requirements of the Public Contract Regulation 2015, such information shall include the:
- 14.35.1 Name of the Contractor,
  - 14.35.2 Date on which the contract was entered into, and
  - 14.35.3 Value of the contract
- 14.36 The Responsible Officer must add the Contract to the relevant directorate's Contract Register to ensure compliance with Transparency Regulations.

## **15. Procuring via one of the Council's Corporate Contracts**

- 15.1 The Council has entered into a number of partnership arrangements for either:
  - 15.1.1 Direct delivery of internal services (e.g. payroll)
  - 15.1.2 Direct delivery of its services to the public (e.g. the refuse collection service)
  - 15.1.3 Centralised procurement of other bought in services (e.g. agency staff etc).
- 15.2 Where the requirement can be satisfied from an existing Corporate Contract then the call-off Order will be considered consistent with these Rules, so long as the call-off procedures defined within the individual contract are followed.
- 15.3 Failure to use an existing corporate contract may result in the Council being in breach of the contract, which may incur financial penalties for the Council.
- 16. Procuring via a Framework Agreement or Dynamic Purchasing System (DPS)**
  - 16.1 A contract of any value can be procured via a framework agreement or DPS. Compliance with these Rules and relevant national and law is achieved through compliance with the framework agreement/DPS terms and conditions. This will involve:
    - 16.1.1 reviewing relevant Framework/DPS guidance document(s)
    - 16.1.2 reviewing the correct process for call off (which may be through further competition or direct award)
    - 16.1.3 following the stated call off process, as laid out in the Framework/DPS documentation
  - 16.2 For the avoidance of doubt, a framework agreement or DPS is considered a compliant procurement route where:
    - 16.2.1 It has been entered into by the Council in compliance with these Rules; or
    - 16.2.2 Another contracting authority, purchasing consortium or Central Government has tendered the framework agreement or DPS in compliance with national and procurement law and the Council is named as a potential user of the arrangement.
  - 16.3 The Responsible Officer shall undertake due diligence checks on the successful bidder(s) and any organisation relied upon to meet the winning supplier's selection criteria, to evidence their fulfilment of the selection criteria, and that there are no grounds for exclusion.
  - 16.4 The Responsible Officer shall carry out this due diligence at Contract Award and for the duration of the Contract
  - 16.5 Where the value of the Call-off Contract is below the relevant UK Procurement Threshold, the contract award must be authorised by the relevant Chief Officer in consultation with the relevant Head of Service., using the Framework Access and Call-off Award Form.

- 16.64 Where the value of the call-off Contract is above the relevant UK Procurement Threshold, the contract award must be authorised by Cabinet.
- 16.75 The call-off contract may be signed by the relevant Chief Officer in accordance with financial limits provided that Rule 16.3 has been met.
- 16.86 Officers must not make any substantive changes to the call-off terms and conditions of the Framework Agreement or DPS.
- 16.97 Where the call-off contract is valued over £20,800 an award notice is required to be published on Contracts Finder, Welland Procurement is responsible for publishing such award notices.
- 16.10 Where the Council is using an external framework, and the total value of the contract is £5,000 or above, the Responsible Officer must add the Contract to the relevant Directorate's Contract Register to ensure compliance with Transparency Regulations.
- 16.11 Where the Council has set up a framework, only the framework needs to be recorded on the register. It is not necessary to record the individual call-offs from the framework.
- 16.12 The Officer is responsible for the subsequent storage and safe keeping of the signed contract.

## **17. Contract Management**

### **17.1 Contract Manager**

17.1.1 All contracts must have a named Contract Manager for the entirety of the contract.

17.1.2 During the life of the contract, the Contract Manager must monitor the overall performance of the contract in line with the specification, agreed service levels and contract terms.

### **17.2 Variation**

17.2.1 In any case where a variation to an existing contract means that the value of a contract would exceed the relevant UK Procurement Threshold, or where there is any material change to the contract, the contract must be treated as a new procurement under these Rules.

17.2.2 A material change is one which:

- (a) Would have allowed the admission of other Bidders or the acceptance of another tender; or
- (b) Extends the scope of the contract considerably to include goods, services or works not initially covered by the original Specification; or

- (c) Changes the economic balance in favour of the contractor in a manner not provided for in the procurement documents;
- (d) For clarity, a change will be deemed immaterial if the value of the modification is both below the relevant UK procurement Threshold and below 10% of the original contract value for goods and services (or 15% for works contracts).

17.2.3 A Corporate Contract or Framework Agreement must not be varied beyond its original contractual terms and specification, unless the contract documents specifically include a contract variation provision, which clearly states the scope and nature of a possible variation.

17.2.4 This Rule will not apply to the variation of an Individual Placement Agreement (IPA), which shall be processed as an Exemption under Rule 4, unless the total contract value of the IPA exceeds the UK threshold for the Light Touch Regime, in which case these Rules on Contract Variation shall apply.

17.2.5 Contract variations must be approved by the relevant Chief Officer in the first instance, in consultation with the Monitoring Officer and appropriate Portfolio Holder.

17.2.6 Cabinet must agree to the variation where the increase in the total value of the contract brought about by the variation exceeds £100,000 p.a.

17.2.7 Prior to any variation being agreed the Responsible Officer must ensure that sufficient additional budget provision has been approved by the budget holder.

### 17.3 Extension of Contracts where the extension is allowed for within the contract

17.3.1 This Rule will not apply to the extension of an Individual Placement Agreement (IPA), which will be processed as an Exemption under Rule 4, *unless* the total contract value of the IPA is in excess of the UK threshold for the Light Touch Regime, in which case these Rules on Contract Extension shall apply.

17.3.2 Where a contract extension is specifically allowed for within the Contract: approval of that extension can be made by the relevant Responsible Officer in line with the financial limits, prior to the extension being invoked and the decision recorded in writing.

17.3.23 A Framework Agreement shall only be extended if the contract documents allow this and the original framework term together with an extension does not exceed four (4) years except in exceptional circumstances.

### 17.4 Extension of Contracts where the no extension is allowed for within the contract

17.4.1 Where a business need has been identified which means that a contract is required to be extended beyond the term permissible in the original contract documents, the Responsible Officer requesting the extension must be satisfied that an extension would achieve value for money and be reasonable in all circumstances.

17.4.2 Where Rule 17.4.1 applies, advice must be sought from the Monitoring Officer and, where the Contract is subject to the Public Contract Regulations 2015, from Welland Procurement.

17.4.3. If an Officer wishes to extend a Contract where the value of the extension is below £50,000 p.a. and provided that Rules 17.4.1 and 17.4.2 have been complied with, then the permission of the budget holder is required.

17.4.4 If an Officer wishes to extend a Contract where the value of the extension is above £50,000 p.a. and provided that Rules 17.4.1 and 17.4.2 have been complied with, permission must be authorised by the relevant Chief Officer, in consultation with the Monitoring Officer and appropriate Portfolio Holder.

17.4.5 Contracts with a total contract value above £500,000, can only be extended with the authorisation of Cabinet.

17.4.6 Contracts with a total contract value at or above £1,000,000, can only be extended with the authorisation of Council.

## 17.5 Termination

17.5.1 A contract valued below £100,000 p.a. must not be terminated unless:

- (a) Advice has been obtained from the Monitoring Officer; and
- (b) Written approval has been obtained by the relevant Chief Officer in consultation with the relevant Portfolio Holder, using the Exemption & Contract Management Form (Section B – Termination).

17.5.2 A contract valued at or above £100,000 p.a. can only be terminated where written approval has been obtained from the Monitoring Officer and authorisation from the Cabinet has been obtained.

## 17.6 Assigning Contracts

17.6.1 A contract valued below £100,000 p.a. must not be assigned unless:

- (a) Advice has been obtained from the Monitoring Officer; and
- (b) Written approval has been obtained by the relevant Chief Officer in consultation with the relevant Portfolio Holder, using the Exemption & Contract Management Form (Section B – Assignment).

17.6.2 A contract valued at, or above, £100,000 p.a. can only be assigned where written approval has been obtained from the Monitoring Officer and Section 151 Officer and authorisation from the relevant Chief Officer.

17.6.3 A Contract should not be assigned unless the contract document specifically includes a provision allowing for Assignment of the Contract.

## 17.7 Novation of Existing Contract

17.7.1 The novation of a contract valued below £100,000 p.a. to a new contractor or other Contracting Authority, must not take place unless:

- (a) Advice has been obtained from the Monitoring Officer; and
- (b) Written approval has been obtained by the relevant Chief Officer-in consultation with the relevant Portfolio Holder-, using the Exemption & Contract Management Form (Section B – Novation).

17.7.2 A contract valued at or above £100,000 p.a. can only be novated where written approval has been obtained from the Monitoring Officer and Section 151 Officer and authorisation from the relevant Chief Officer.

17.7.3 A Contract should not be novated unless the contract document specifically includes a provision allowing for Novation of the Contract.

## 17.8 Nominated Sub-Contractor and Suppliers

17.8.1 Where a sub-contractor or supplier is nominated by the Council to a main contractor, the provisions of these Rules shall have effect.

## 18 **Other Matters to Consider**

### 18.1 Abnormally Low Bids

18.1.1 Under the Public Contract Regulations 2015, the Council is required to request an explanation of the price or costs proposed in a tender where that price or those costs appear to be abnormally low in relation to the requirement.

18.1.2 Advice should be sought from Welland Procurement during this process to ensure that the requirements of the Public Contract Regulations 2015 are adequately complied with.

### 18.2 GDPR Requirements

18.2.1 The General Data Protection Regulations impose greater obligations on the Council to protect an individual's personal data.

18.2.2 Officers conducting a procurement should ensure that the GDPR screening questions set out in the Pre-procurement Business Case template are used; or where this template is not required Officers should

seek advice from the Data Protection Officer if this is considered necessary.

18.2.3 Should any of the GDPR screening questions be answered positively, further advice must be sought from Welland Procurement and/or the Council's Data Protection Officer before any further action is taken.

### 18.3 Sealing a Contract

18.3.1 A contract must be executed as a Deed under seal where:

- (a) The Council wishes to enforce the contract for up to twelve years following its expiry; or
  - (b) The price paid or received under the contract is a nominal price and does not reflect the value of the goods, services or works; or
  - (c) There is any doubt about the authority of the person signing for the other contracting party; or
  - (d) A Bond is established on behalf of the Supplier(s) or their guarantor(s); or
  - (e) Required by the Parties to the agreement; or
  - (f) Any contract with a value £100,000 p.a. and above.
- and the Monitoring Officer has not authorised execution as a contract.

18.3.2 Where contracts are completed by each side adding their common seal, the affixing must be attested by or on behalf of the relevant Chief Officer.

18.3.3 As provided for in Procedure Rule 48 the Common Seal of the Council may be affixed by physical means or by electronic means authorised by the Strategic Director for Law and Governance. A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

## 19 **Grants**

19.1 These Rules apply specifically to Grants made by the Council to external organisations as a contribution to their running costs and/or for the delivery of a project.

19.2 The awarding of grants to external organisations by the Council or on behalf of the Council must be carried out under the principles of openness, fairness, non-discrimination and value for money.

19.2 Grants must only be awarded as a contribution to service or project costs. Any grant in the form of payment for a contract for services where the Council specifies the output or outcomes to be delivered must be treated as a contract and procured accordingly. Officers cannot choose to treat procurement as a grant in order to avoid conducting a competitive process.

19.3 Award and sign-off of Grants

19.3.1 Where the grant is valued below £49,999 p.a., the grant may be awarded by Responsible Officer.

- 19.3.3 Where the grant is valued over between £50,000 p.a., the grant should be awarded by the relevant Chief Officer in consultation with the Portfolio Holder.
- 19.4 In all instances where a Grant is made, the Responsible Officer must keep a written record detailing:
- Why a Grant is being used, and why the award does not constitute a contract;
  - How the organisation(s) awarded the grant were chosen;
  - The justification for the level of Grant, including any negotiation undertaken with the organisation being awarded;
  - The process of monitoring the grant to ensure that it is spent within the Grant Conditions.
- 19.5 A Grant must be made in writing.
- 19.5.1 For Grants valued under £10,000 p.a., this can be in the form of a letter, clearly stating the value of the grant, the purpose of the grant, the period, any Terms and Conditions to be met, and reporting requirements.
- 19.5.2 The Council's standard Grant Agreement must be used for any Grants made over the value of £10,000 p.a, unless deemed inappropriate by the Responsible Officer. For those over the value of £50,000 p.a., the relevant Chief Officer must authorise use of any alternative Grant Agreement used. In all cases any alternate Agreement used must clearly set out all of the areas covered by the Council's standard Grant Agreement.
- 19.6 The Grant Agreement should be signed by the relevant budget holder according to financial limits.
- 19.7 Where the Council receives a Grant and is subsequently awarding that Grant to external organisations, the Responsible Officer must ensure that any organisation receiving any part of that Grant is required to undertake all requirements of the Grant, in order that the Council is able to meet their obligations under the original Terms and Conditions.
- 19.8 All grants must be monitored to ensure they are being used for the purpose which they were awarded for.



## Appendix 1: Quick Reference Guide to Contract Procedure Rules

There are several key principles running through the Contract Procedure Rules. The first is that Value for Money must be evidenced in every procurement process. The second is that there must be a budget in place before money is spent (of however much); if no budget exists then one must be sought before any procurement activity begins.

Section of Contract Procedure Rules	Thresholds	Authorisation of Award Criteria	Authorisation of Award	Limits
<b>9</b>	<£5,000 p.a.	Budget Holder	Budget Holder	Maximum value of contract over the period £25,000 and/or contract should be no longer than 5 years in total.
<b>10</b>	£5,000 p.a. to £24,999 p.a.	Budget Holder (paragraph) 10.1	Budget Holder (paragraph) 10.6	Up to a total of £50,000 over the life of the contract and no more than 5 years in total.
<b>11</b>	£25,000 p.a. to £49,999 p.a.	Budget Holder (paragraph) 11.2	Chief Officer in consultation with Portfolio Holder (paragraph)s 11.10	Up to a total of £100,000 over the life of the contract and no more than 5 years in total.
<b>12</b>	£50,000 p.a. to - UK Procurement Threshold for Goods & Services	Chief Officer and Cabinet (paragraph) 12.4	Chief Officer and Portfolio Holder if delegated at award stage; <u>or</u> Cabinet if no such delegation (paragraph) 12.22	Up to a total of the UK Procurement Threshold.
<b>13 and 14</b>	UK Procurement Thresholds and above	Cabinet (paragraph) 13.5 and 14.2	Chief Officer and Portfolio Holder if delegated at award stage; <u>or</u> Cabinet if no	Within Finance Procedure Rules

		Council (above £1million	such delegation; <u>or</u> Council (above £1million (paragraph) 13.24 and 14.22	
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## **Appendix 2: Definitions**

Assign/Assignment	Transfer of a contractual benefit by one person (the assignor i.e. supplier) to another party (the assignee i.e. sub-contractor). The assignor remains liable for the original obligation in its contract with the obligor (purchaser), unless there is an agreement in their contract to the contrary.
Award Criteria	The criteria stated in the Quotation/Tender documentation, by which the successful Bidder is to be selected.
Award Notice	A notice published on the Find a Tender Service and/or Contracts Finder which provides details of the winning bidder and the final value of the contract. Award notices are required for all procurements valued over £20,800 - £25,000 including VAT.
Award Procedure Contract.	The procedure for awarding a Corporate Contract.
Best Value	Is the duty on the Council to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
Bidder	Any person/organisation who asks for or is invited to submit a Quotation/Tender.
Call Off	A specific requirement which can be met under the terms of a Framework Agreement/DPS and which is issued under the terms of the Framework Agreement/DPS to form a contract.
Chief Officer	A member of the Corporate Leadership Team: Directors and Deputy Directors
Collaborative Joint Purchasing	Combining selected Products/Services purchases together with like-minded organisations, to negotiate with suppliers for mutual benefit.
Contract	Is a binding agreement between two or more parties for performing, or refraining from performing, some specified act(s) in exchange for lawful consideration.

Contracting Authority	Has the definition contained within the Public Contract Regulations 2015. It means the State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law, and includes central government authorities, but does not include Her Majesty in her private capacity
Contract Extension	An extension to the duration of the Contract beyond the initial term, but not including any alteration to the scope of the Contract.
Contract Management	Is the process of managing contract creation, execution and analysis to maximise operational and financial performance of an organisation, all while reducing financial risk.
Contract Manager	The officer responsible for the budget and the management of the contract, including the performance management and ensuring compliance with its terms and conditions.
Contract term	Is the length of the contract including the initial term and any extension periods proposed.
Contract Terms and Conditions	The contractual terms and conditions used by the Council for the procurement of goods, services or works.
Contract Value	is the total value over the whole potential life of the contract; <i>Example:</i> if the annual contract value is £20,000 x 5 years (3yr fixed + extension of 1yr + 1yr) = £100,000.
Contract Variation	Is an alteration to the scope, term or any other part of a Contract. The limitations of the Public Contract Regulations 2015 should be borne in mind when varying a contract.
Corporate Counter Fraud Strategy	The Council's arrangements to exercise its duty to protect the public money that it controls from loss due to dishonesty. It also has a duty to provide assurance to the people of Rutland; to its employees and to other stakeholders that it is taking this responsibility seriously.
Corporate Contract Council.	A contract that has already been let by the Council.

Council	Rutland County Council District Council.
Strategic Director of Resources	The Director responsible for the Resources Directorate.
Document Retention Guidance of time for Procurement & Contracts ccontracts	The Council's guidance on the appropriate length documents relating to tenders, quotations and need to be retained either in hard copy or electronically.
Dynamic Purchasing System (DPS) duration which is	A completely electronic system of limited established by the Council to purchase commonly used goods, services or works; and is open throughout its duration for the admission of contractors who satisfy selection criteria specified by the Council and who submit an Indicative Tender to the Council, or body operating the system on its behalf, and who comply with the specification.
Electronic Tendering System	A system hosted by Welland Procurement that enables the Council and providers to conduct the key activities of the procurement lifecycle over the Internet.
Exemption	Approval given by the relevant –Chief Officer– or the Cabinet of the Council as appropriate to exempt an Officer or Officers from adhering to these Contract Procedure Rules.
Evaluation	The process of assessing received tenders or quotations against the published criteria to identify the winning bidder, i.e. the bidder with the highest evaluation score.
Financial Procedural Rules	The Financial Regulations outlining the Officer's responsibilities for financial matters.
Framework Agreement	A formal tendered arrangement which sets out the terms and conditions under which specific purchases (call-offs) can be made from the successful Bidders, in unpredicted quantities at different times throughout the term of the Framework Agreement.
FTS	The UK's e-notification service Find a Tender.

FTS Notice	Notice posted on the Find a Tender Service including a PIN, a Contract Notice or Award Notice.
Goods Contract	A Contract let by public authorities for the supply of tangible assets including electricity, gas, heat, water, off-the-shelf software and the hire of plant without driver.
Initial Term	The initial period of a contract which may be subsequently extended.
Invitation to Tender	Means the document(s) containing the specification, proposed terms and conditions and other appropriate information, as issued to the Tenderers to solicit formal Tenders.
Irregular Tender	A Tender that does not fully comply with the instructions set out in the Invitation to Tender document.
Life Cycle Costs	means all or part of the following costs over the life-cycle of a goods, service or works, to the extent that they are relevant: <ul style="list-style-type: none"> <li>(i) Costs of acquisition,</li> <li>(ii) Costs of use i.e. use of energy and other resources,</li> <li>(iii) Maintenance costs,</li> <li>(vi) End of life costs i.e. disposal or recycling costs.</li> </ul>
Light Touch Regime	Refers to those social and other specific services covered by Part 2: Chapter 3 - Section 7 and the CPV Codes detailed in Schedule 3 of the Public Contract Regulations 2015.
Members	Democratically elected representatives that represent the interests of the people of Rutland at a local, regional and national level.
Monitoring Officer	The Officer appointed by the Council under Section 5 of the Local Government and Housing Act 1989.
Most Economically Advantageous Quotation/Tender	This evaluation criteria is the best combination of price and quality, based on whole life costs, qualitative, environmental and/or social aspects linked to the subject matter of the contract.

Novation	The substitution of a new contract for one already existing. The new contract may be between the same parties or it may involve the introduction of a new party. A novation also takes place when the original parties continue their obligation to one another, but a new agreement is substituted for an old one.
Officer	The Officer responsible for undertaking a purchase.
Parent Company Guarantee	A contract which binds the parent of a subsidiary company as follows – if the subsidiary company fails to do what it has promised under a contract with the Council, they can require the parent company to do so instead.
Performance Bond	An insurance policy: if the contractor does not do what it has promised under a contract with the Council, the Council can claim from the bondsman the sum of money specified in the Bond (often 10% of the contract value). A Bond is intended to protect the Council against a level of cost arising from the contractor's failure.
Portfolio Holder	The Council Member whose responsibilities include the area of activity covered by the contract.
Procurement Exercise	Any process by which goods, services and/or works are to be procured, including but not limited to Request for Quotations and Formal Tender Processes following the requirements of an Open or Restricted Tender, or some other method defined by the Public Contract Regulations 2015. For the purpose of these Rules a Contract for a Concession shall be treated as a Procurement Exercise.
Procurement Regulations	Regulations which are given force of law in the UK through the Public Contract Regulations 2015 as amended and any successor regulations which specify in detail the procedures by which public authorities shall undertake their procurement.
Procurement Toolkit	Guide for commissioners of services giving advice on how to procure goods, services, and works in accordance with the Council's constitution and procurement legislation.

Publicly Available Contract	A contract that has been let by another Contracting Authority or a public purchasing consortium such as Crown Commercial Service, ESPO etc and which is available for use by the Council. The Council must have been named specifically or generally within the procurement documentation in order to enable access.
Public Contract Regulations 2015	These Regulations implement the Public Contract Directive 2014 into UK law, and reflect the principles of the Treaty of Rome.
Quotation	An offer to sell goods, services and/or works at a stated price under specified conditions. Written Quotations must be sought in accordance with these Rules.
Quotation Register	A register kept by each Directorate to provide an audit trail for the receipt and opening of all Quotations.
Regulated Procurement Procedures	The procedure required by the UK for awarding contracts where the value exceeds the UK Procurement Thresholds (see Appendix 3).
Responsible Officer	The officer responsible for the budget and acting as the procurement lead during the procurement process.
Rules	The individual rules which together make up Rutland County Council's Contract Procedure Rules, as may be amended from time to time.
Scheme of Delegation	Part 3 and 8 of the Council's Constitution which sets out how the executive and non-executive functions of the Council are delegated to the various decision making bodies and officers of the Council.
Section 151 Officer	The officer appointed under section 151 of the Local Government Act 1972 which requires every local authority to appoint a suitably qualified officer responsible for the proper administration of its affairs.
Selection Questionnaire	Means the set of standard selection questions referred to



(above UK threshold)	in PPN 08/16, which complies with the Crown Commercial Service guidance relating to Selection Questionnaires.
Service Contract	Contract let by public authorities for services as defined in The Treaty of Rome which is for anything other than, civil engineering and building works and works concession contracts.
Social Value Act	The Public Services (Social Value) Act 2012 requires those tendering any Service over the UK Thresholds to consider the economic, social and environmental well-being of the relevant area (normally the County of Rutland) and to apply this to the procurement process. The Council's social value commitment widens the scope of this requirement to goods, services and works above the Council's tender threshold (£50,000 p.a.).
Specification	An exact statement of the particular needs to be satisfied, or essential characteristics that a customer requires (in a good, material, method, process, service, system, or work and which a bidder must deliver.
Suitability Questionnaire (below UK threshold)	Suitability questions which relate to the subject matter of the procurement and are proportionate, and which are required by the Council for assessing the Tenderers suitability, capability, legal status, or financial standing. Regulation 111(6) – Public Contract Regulations 2015.
Tender	A formal offer from a Tenderer, which is capable of acceptance by the Council, which is a response to an Invitation to Tender. It shall include all documents comprising the submission including pricing, technical specification and method statements, as well as information about the Tenderer. The term 'Tender' also includes an E-Tender, except where the context implies otherwise.
Tenderer(s) /Bidder(s)	The person(s) invited to participate in a procurement exercise.
Tender Register	A Register kept by the Governance team to provide an audit trail for the receipt and opening of all non-electronic Tenders.

Terminate	To end a contractual arrangement.
TUPE	Refers to the Transfer of Undertaking (Protection of Employment) Regulations 2006. These regulations ensure the protection of employees when, for example, a business is taken over by another organisation. TUPE regulations ensure that the rights of employees are transferred along with the business.
UK Thresholds	The contract value at which the UK Regulations must be applied. See Appendix 3 for guidance.
Value for Money	Is not necessarily the lowest price, it combines goods or services that fully meet the needs with the level of quality required, delivered at the time needed and at an appropriate price.
Welland Procurement	Welland Procurement is a shared procurement service hosted by Melton Borough Council. Welland Procurement issues guidance and offers assistance on procurement matters to all participating councils.
Whole life costs	The total cost of ownership over the whole length of the contract and sometimes beyond.
Works Contract	Contract let by public authorities for civil engineering and building works and works concession contracts.

### **Appendix 3: Variable Information**

The following information is subject to change during the currency of these Contract Procedure Rules and may be updated as changes occur by the relevant Chief Officer.

#### **Procurement Guidance & Documentation**

The Council's Procurement Toolkit together with a suite of procurement documents, templates and forms are available on the Rutland County Council section of the Welland Procurement Portal <http://wellandprocurement.org.uk/>.

**UK Thresholds** - Valid from: 1<sup>st</sup> January 2022 until 31<sup>st</sup> December 2022, the UK Thresholds are:

**Goods and Services:** £177,897

**Works:** £4,447,447;

**Light Touch Regime:** £552,950.

#### **Chief Officers**

Please refer to Part 7 of the Constitution for details of the Chief Officers Structure.  
<https://rutlandcounty.moderngov.co.uk/ieListDocuments.aspx?CId=349&MId=1735&info=1&MD=Constitution>

#### **Commissioning Team**

In the first instance please contact Louise Gallagher, Commissioning Manager or Karen Kibblewhite, Head of Commissioning.

#### **Welland Procurement**

In the first instance please contact the Head of Welland Procurement

- Head of Welland Procurement: Amy Myers ([amyers@melton.gov.uk](mailto:amyers@melton.gov.uk); 07342 062 861)
- Procurement Strategy Manager: Paul Large ([plarge@melton.gov.uk](mailto:plarge@melton.gov.uk); 07769 918574)
- Senior Procurement Officer: Paul Williams ([pawilliams@melton.gov.uk](mailto:pawilliams@melton.gov.uk); 07887 894811)

- Senior Procurement Officer: Tina Ripplingale ([trippingale@melton.gov.uk](mailto:trippingale@melton.gov.uk); 07342 062594)
- Procurement Officer: Richard Moon ([rmoon@melton.gov.uk](mailto:rmoon@melton.gov.uk); 07896 856842)

# RUTLAND COUNCIL CONSTITUTION

## GLOSSARY AND INDEX

This glossary explains some of the key terms used throughout the Constitution.

**Authorised Representative of a Political Group** - a member of a political group on the Council who has been authorised by the members of that political group to act on behalf of its Leader in matters relating to the Local Government (Committees and Political Groups) Regulations 1990, as amended.

**Authority** - Rutland County Council District Council acting by any means which it may lawfully adopt.

**Budget Framework** - the detailed contents of the budget approved by the Council each year. The Cabinet may take decisions within the Budget Framework were authorised to do so by law or by the delegated authority of the Council. Should the Cabinet take a decision outside or not wholly in accordance with the Budget Framework and the decision is subsequently 'Called-In' by the non-executive members, then the decision may be referred to the Council for review. The Chief Finance Officer is responsible for determining if decisions taken by the Cabinet are outside or not wholly in accordance with the Budget Framework.

**Cabinet** - the collective name given to the Leader of the Council and the other executive members.

**Call-In** - the process by which key decisions of the Cabinet can be postponed from being implemented by Scrutiny Committee members until either the Cabinet or the Council have reconsidered the matter. If the decision is outside the policy framework or not wholly in accordance with the budget framework, the Council may reconsider the matter. If the decision is within the policy or budget framework, then the Cabinet reconsiders its earlier decision. The Monitoring Officer is responsible for determining whether a decision is within the policy framework and the Chief Finance Officer is responsible for determining whether the decision is outside or not wholly in accordance with the budget framework.

**Catmose** - any reference to Catmose shall be taken to mean the administrative headquarters of Rutland County Council. It shall also apply equally to the buildings known as Catmose Cottage and the Rutland County Museum.

**Chief Officer** - a statutory or a non-statutory chief officer such as the Head of the Paid Service, designated under Section 4(1) of the 1989 Act; a statutory Chief Officer mentioned in paragraphs (a), (c) or (d) of Section 2(6) of the Act; a non-statutory Chief Officer (within the meaning of Section 2(7) of the Act); or any officer designated as Head of a Service.

**Chief Finance Officer** - the Officer appointed under Section 151 of the 1972 Act to be responsible for the Council's financial affairs.

**Committee** - a Committee appointed by the Council to discharge any of its powers and duties.

**Council** - Rutland County Council District Council acting by any means which it may lawfully adopt.

**Deputation** - a submission on behalf of one or more individuals or on behalf of a body or bodies but not where any of the individuals or bodies are themselves the applicant or an applicant's agent for any planning or relevant permission.

**Employee** - an employee of the authority or the holder of a paid office under the authority other than the Chairman, Vice-Chairman and any local officer of dignity appointed by the authority under powers conferred by a Royal Charter.

**Head of Paid Service** - the person designated under Section 4 of the 1989 Act to be the Head of the Council's Paid Service.

**In writing** - a communication in a written form. An electronic communication by e-mail or by fax will be accepted as fulfilling this requirement if the originator is clearly obvious and the electronic signature conforms to statutory requirements. Most e-mails do not currently comply with this requirement but a scanned signature in a document attached to an e-mail is acceptable.

**Key Decision** - a 'key decision' means an executive decision which is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or to be significant in terms of its effects on communities living or working in an area comprising two or more wards in Rutland. In determining the meaning of 'significant' above regard must be paid to any guidance issued by the Secretary of State.

**Leader and Deputy Leader of a Political Group** - the Leader and Deputy Leader of a political group as defined in the Local Government (Committees and Political Groups) Regulations 1990, as amended.

**Leader and Deputy Leader of the Council** – the Leader of the Council is such person as the Council shall so designate by resolution; the Deputy Leader of the Council is such person as so designated by the Leader of the Council.

**Majority Group** - a political group to which belong either:

- a) More than half of the Members of the Council; or
- b) Exactly half of the Members of the Council, including the Chairman of the Council.

**Meeting** - a meeting of the Council, a Committee, Sub-Committee, or Cabinet as the case may be.

**Member** - in relation to the Council, a councillor elected to the Council. In relation to any Committee, Sub-Committee or Cabinet a person appointed as a Member of that body, whether or not elected as a councillor or entitled to vote.

**Minority Group** - a political group which;

- a) where there is a majority group among the Members of the Council, is not that majority group; or
- b) in any other case, is designated as such by a resolution of the Council.

**Monitoring Officer** - the person designated under Section 5 of the 1989 Act (designation and reports of Monitoring Officer) or, if that person is unable to act owing to absence or illness, the person nominated as his deputy under subsection (7) of that Section.

**Non-Executive Member** - a Member who is not appointed to the Cabinet.

**Number of Members** - the number of persons who may act at the time as Members of the Council. In relation to a Committee, Sub-Committee, or Cabinet, the number of persons who may act at the time in question as voting members of that body.

**Person presiding** - the person entitled, or appointed, to preside at any meeting.

**Political Group** - a political group as defined in the Local Government (Committees and Political Groups) Regulations 1990, as amended.

**Policy Framework** - the collective name given to the policy decisions taken by the Council in respect of its functions. The Cabinet may take decisions within the policy framework where authorised to do so by law or by the delegated authority of the Council. Should the Cabinet take a decision outside the Policy Framework and the decision is subsequently 'Called-In' by the non-executive members, then the decision may be referred to the Council for consideration. The Monitoring Officer is responsible for determining if decisions taken by the Cabinet are within or outside the Policy Framework.

**Proper Officer** - the person designated by the authority to carry out a specific duty which has been assigned to a proper officer in legislation. This is also known as a Proper Officer Appointment.

**Received in writing** - where a document or written instruction must be received in writing, it is the responsibility of the person submitting the document to ensure that it is received by the intended recipient by the deadline. It can be received electronically by Email to the Council's mailbox [governance@rutland.gov.uk](mailto:governance@rutland.gov.uk) or physically by post or hand. Leaving the document in the Council's Customer Service Centre, Council's main letterbox or at any Council building does not qualify as being received by the recipient. The document must be physically received by the recipient or authorised deputy before the stated time to qualify as being received.

**Recommendation to Council** - these are decisions of a Committee, Sub-Committee, or Cabinet meeting for which they do not have relevant delegated authority or powers. These decisions have to be ratified by the Council before any action can be taken.

**Resolution** - decisions which are taken under delegated authority or powers. Action may be taken from the moment the decision is made subject to the expiry of any time allowed for a referral of the decision to Council or for a decision to be Called-In.

**Scrutiny Committee** - the name in Rutland which is given to overview and scrutiny Committees as defined in the Local Government Act 2000.

**Section 151 Officer** - the Chief Finance Officer appointed under Section 151 of the 1972 Act to be responsible for the Council's financial affairs.

**Standing Committee** - a Committee appointed by the Council to discharge specific functions and powers on behalf of the Council for the whole of the Municipal Year.

**Sub-Committee** - a body appointed by a Committee to discharge the Committee's powers and duties under delegated authority.

**Task and Finish Scrutiny Group** - A working group of members established by the Overview and Scrutiny Committee with terms of reference. A Task and Finish Group gathers evidence from a range of sources, including site visits, visits to other organisations, expert evidence, workshops, listening exercises and research, as well as committee meetings with Cabinet members and senior officers. Members identify key findings and develop recommendations for Cabinet/Council that are evidence based and clearly link to the main messages arising from the key findings.

**The 1972 Act** - the Local Government Act 1972.

**The 1989 Act** - the Local Government and Housing Act 1989.

**The 2000 Act** - the Local Government Act 2000.

**The 2011 Act** – the Localism Act 2011

**The Whole Number of Members** - in relation to the Council, the total number of persons who may become Members of the Council, disregarding anyone who is a Member of the Council only by virtue of Section 3(3) or Section 5(2) of the 1972 Act (Chairman and Vice-Chairman to remain Members until replaced).

**Without comment** - in relation to the moving, seconding or putting of a Motion, without any person speaking except to indicate the wording of the Motion, the fact that it is being moved, seconded or put, or (in the case of the person presiding) the effect of adopting the Motion.

**Working Days** - working days is used as a reference to clear days within the meaning of the Access to Information Rules and excludes the day of despatch of the agenda, the day of the meeting, Bank Holidays, Saturdays and Sundays and any days set aside for public celebration or mourning.

**Working Party** - references to a Working Party shall also include a Forum, Working Group and any other meetings to which the requirements of the Local Government (Committees and Political Groups) Regulations 1990, as amended, do not apply.