

# Constitution

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## Constitution

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# GUIDE TO THE 2020 CONSTITUTION

**As at January 2020**

**Elected Councillors (Members)**

COUNTY COUNCIL

**CABINET (THE EXECUTIVE)**

Leader plus 9 Cabinet Members with Responsibility for:

- Adult Social Care
- Economy and Infrastructure
- Education and Skills
- Children and Families
- Environment
- Health and Well-being
- Highways
- Communities
- Transformation and Commissioning

**OVERVIEW AND SCRUTINY**

- Overview and Scrutiny Performance Board (overarching)
- Health Overview and Scrutiny Committee
- 4 Overview and Scrutiny Panels (Scrutiny Task Groups as needed)
  - Adult Care and Well-being
  - Children and Families
  - Economy and Environment
  - Corporate and Communities

**OTHER NON-EXECUTIVE BODIES**

- Planning and Regulatory Committee
- Waste Credit Governance Committee
- Pensions Committee
- Standards and Ethics Committee
- Audit and Governance Committee
- Appointments etc Panel
- Health and Well-being Board

**Paid Officers (employees)**

<b>Chief Executive (Head of Paid Service)</b>					
Strategic Director for People	Strategic Director for Economy and Infrastructure		Strategic Director for Commercial and Change	Chief Financial Officer (S151 Officer)	Director of Children's Services & Chief Executive Worcestershire Children First

Assistant Director for Legal and Governance (Monitoring Officer)

Director for Public Health

**Other member bodies**

1. Joint Member/Employee Committees operate under separate constitutions.
2. The West Mercia Energy Joint Committee is a joint committee of the executives of the County Council, Herefordshire Council, Shropshire Council and Telford and Wrekin Council.
3. The Joint Museums Committee is a joint committee of the executives of the County Council and Worcester City Council.
4. The West Mercia Police and Crime Panel is a statutory joint committee of the 10 local authorities in the West Mercia Police area.



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## CONSTITUTION SUMMARY

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3. Citizens and the Council
4. The full Council
5. The Chairman of the Council
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7. Decision Making
8. Overview and Scrutiny Arrangements
9. Planning, Regulatory, Audit and Appellate Functions
10. The Standards and Ethics Committee
11. Joint Arrangements
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1. Responsibility for Functions
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3. Cabinet Procedure Rules
4. Overview and Scrutiny Procedure Rules
5. Access to Information Rules
6. Budget and Policy Framework Rules
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9. Officer Employment Rules
10. Members' Code of Conduct
11. Officers' Code of Conduct

# 1. INTRODUCTION

1.1 Worcestershire County Council has a constitution which sets out:

- how the Council operates
- how decisions are made and
- the procedures which are able to be followed to make sure these are efficient, transparent and accountable to local people.

Some of these processes are required by law, and others are processes which the Council has chosen.

[N.B This Guide reflects the Constitution as it stands in August 2019, and which is subject to change at any time.]

1.2 The purpose of this Guide is to assist the public, elected Members (County Councillors) and Officers (paid staff) by outlining how the Constitution works, and to focus on some of the practical consequences, both in relation to the role of Members of the Council, and that of officers. The terms 'Member' and 'Councillor' are interchangeable.

1.3 The Guide has to simplify the complexities of the Constitution and in some instances what it says will be a general rule rather than explain all the exceptions to the rule. So if the reader is in any doubt, look up the Constitution itself on the website or take advice from the Assistant Director for Legal and Governance or his staff, who are here to help Members and officers with constitutional advice.

1.4 Agendas, reports and minutes for meetings of Council, Cabinet and Committees are accessible from County Hall and online at <http://worcestershire.moderngov.co.uk/uucoverpage.aspx?bcr=1>

## 2. WHAT'S IN THE CONSTITUTION?

2.1 The Constitution is divided into Articles which set out the broad overview of the Constitution. More detailed procedures and codes are contained in the Appendices.

2.2 The Structure diagram inside the front cover shows the relationships between the Council, the Executive (the Cabinet), the Overview and Scrutiny structure, the other Committees and Panels (non-executive) and the officer structure.

2.3 Article 1 of the Constitution explains the purpose of the Constitution and commits the Council to exercise all its powers and duties in accordance with the law and the Constitution.

2.4 Articles 2 to 16 explain how the key parts of the Council operate and the rights of citizens. They are:

- Members (elected Councillors) of the County Council (Article 2)
- Citizens and the County Council (Article 3)
- The full Council (Article 4)

- The Chairman of the County Council (Article 5)
- The Cabinet (Article 6)
- Decision-making (Article 7)
- Overview and scrutiny arrangements (Article 8)
- Planning, Regulatory, Audit and Appellate functions (Article 9)
- The Standards and Ethics Committee (Article 10)
- Joint Arrangements (Article 11)
- Area Arrangements (Article 12)
- Officers (Article 13)
- Finance, contracts and legal matters (Article 14)
- Review and revision of the Constitution (Article 15)
- Suspension, interpretation and publication of the Constitution (Article 16).

2.5 Citizens have a number of rights in their dealings with the Council. These are set out and referred to in Article 3. Some of these are legal rights, whilst others depend on the County Council's own processes.

2.6 Where members of the public use specific Council services, for example as a recipient of social care, they may have additional rights which are not covered in this Constitution or Guide.

2.7 Citizens have the right to:

- vote at local elections if they are registered
- contact their local councillor about any matters of concern to them
- view the County Council's constitution (or obtain a copy of it for a fee)
- attend formal meetings of the County Council, the Cabinet and Committees of the Council except where, for example, personal or confidential matters are being discussed
- participate at formal meetings of the Council, the Cabinet and Committees of the Council in accordance with the Constitution
- find out, from the Forward Plan, what Key Decisions are to be discussed by the Cabinet or considered by Cabinet Members with Responsibility, and when
- see agendas, reports and background papers of matters discussed in public, and any record of decisions made by the Council, the Cabinet, Cabinet Members with Responsibility and Committees of the Council
- complain to the County Council about the services which it provides, or actions or lack of action by the Council or its staff
- complain to the Ombudsman about maladministration if they think the County Council has not followed its procedures properly. However, they should only do this after using the Council's own corporate representations procedure
- complain to the Council's Assistant Director for Legal and Governance if they have evidence which they think shows that a councillor has not followed the County Council's Code of Conduct for Members, and
- inspect the County Council's accounts and make their views known

to the external auditor.

- 2.7 The County Council welcomes participation by its citizens in its work. For further information on your rights and limitations as a citizen under the Constitution, please see Appendix 2 or contact the Assistant Director for Legal and Governance.
- 2.8 Information about our services, our councillors and our meetings or how to complain can be found on our website [www.worcestershire.gov.uk](http://www.worcestershire.gov.uk).

### 3. HOW THE COUNTY COUNCIL OPERATES

#### 3.1 Composition and Role

- 3.1.1 The Council comprises 57 County Councillors elected at the same time every 4 years. They are democratically accountable to residents of their Division 'through the ballot box'. They are often referred to as "Members". The Council operates executive arrangements under the 'Leader and Cabinet' model. A fundamental legal concept is the split in political responsibility between executive (Leader and Cabinet) and non-executive (Council and Committees) functions. Officers (paid staff) of the Council may exercise both executive and non-executive functions as long as they have been delegated to them.
- 3.1.2 "Full Council" (meetings of all 57 Councillors) take place around 6 times a year. The job of the full Council is to approve the Council's Corporate Plan and main policies (the policy framework as set out in Appendix 1) and the Annual Budget (both revenue and capital) and hold the executive (Leader and Cabinet) to account. There are other matters reserved to the full Council to decide. These are set out in the scheme of assignment of responsibility for functions (Appendix 1), and include the appointment of the Leader of the Council, adopting and making changes to the Members' Code of Conduct, and approving the Members' Allowances Scheme.
- 3.1.3 The County Council is also responsible for electing its Chairman and Vice-Chairman (for the civic leadership of the Council), the Leader of the Council (for political leadership), and for establishing certain other committees and member bodies and appointing their chairmen and vice-chairmen. Some of these are responsible for assisting in policy development, scrutinizing and reviewing the decisions of the Cabinet (such as the Overview and Scrutiny Performance Board), while others have statutory non-executive responsibilities to discharge (such as Planning and Regulatory Committee).
- 3.1.4 The Cabinet is chaired by the Leader, who has responsibility for political decisions which are the responsibility of the 'Executive' and are taken by the Cabinet collectively or by individual Cabinet Members with Responsibility.
- 3.1.5 The Council receives regular reports from the Cabinet, which may make recommendations on Council matters (for example, the Budget), and will also report on decisions already made. The Council and its committees cannot take decisions which are the responsibility of the Executive (which we call the 'Cabinet'). The Cabinet cannot take decisions which are the responsibility of the the Council and its committees (non-Executive functions) but makes recommendations to Council on the Budget and Policy framework.

3.1.6 The Council also receives regular reports from its other Committees and Cabinet Members with Responsibility.

3.1.7 The Chief Executive (as Head of Paid Service), the Assistant Director for Legal and Governance (as Monitoring Officer) and the Chief Financial Officer all have the right as statutory officers to submit reports directly to the full Council.

3.1.8 As a result of executive arrangements then unless the matter is one which:

- is for the full Council or its Committees to determine (as set out in the Constitution, particularly the scheme of assignment of responsibility for functions in Appendix 1)
- is contrary to the policy framework or not wholly in accordance with the County Council's budget
- cannot in law be the responsibility of the Cabinet

then the Council or its other Committees cannot take a decision about that matter (or overturn a decision of Cabinet or Cabinet Member). That responsibility rests with the Leader and Cabinet. Similarly, the Cabinet or Cabinet Member cannot take a decision which is the responsibility of the Council or its Committees.

3.1.19 Responsibility for some matters remains with full Council, either because the law requires this or because it has chosen to retain responsibility as allowed by the law. The Scheme of Assignment of Responsibility of Functions sets out the position in Appendix 1.

## **3.2 Meetings of the Council**

3.2.1 Meetings of the Council are relatively formal. The Council's Procedural Standing Orders (Appendix 2 of the Constitution) govern how a meeting of the Council is conducted and its agenda items. Many Standing Orders also apply to the Overview and Scrutiny Performance Board and other Committees. The Cabinet may choose and does apply them or parts of them to its own proceedings. Meetings are presided over by the relevant Chairman.

3.2.2 The report of the Cabinet to the Council will be presented by the Leader of the Council. The Leader may respond on behalf of the Cabinet to questions, or he may arrange for a question to be answered by a Cabinet Member with Responsibility (CMR).

3.2.3 At each meeting of the Council there are 30 minutes available for members to ask written questions (previously submitted) of the Leader of the Council, CMRs, or Committee Chairmen. The Leader of the Council, CMR, Chairman of the Overview and Scrutiny Performance Board and Chief Executive also present, on a programmed basis, a report to the Council outlining current issues and principal developments within their area. Council has decided that the Leader, Chief Executive and Chairman of the Overview and Scrutiny Performance Board will report annually, and each CMR on a rolling basis.

3.2.4 Where the Council considers a scrutiny report, the Member who led that scrutiny will generally present it, and may be questioned on it.

- 3.2.5 Reports of other Committees of the Council and certain other bodies (eg Hereford and Worcester Fire Authority) will be presented by their respective Chairmen or representatives, of whom questions can also be asked, although normally the report will be of decisions taken which cannot be overturned by Council.
- 3.2.6 Members of the public may participate at each meeting of the Council by presenting a petition, asking a question or making a comment in accordance with the Procedural Standing Orders and at the discretion of the Chairman. They need to notify the Assistant Director for Legal and Governance of the nature and content of their proposed participation by 9am the working day before the meeting in question.
- 3.2.7 The Council has also made provision for debates on 'key issues' to be held. No decisions or votes will be taken in such debates, but key points will be considered by the Cabinet and/or Council in determining future policy.
- 3.2.8 The Council can also consider, debate and (if a non-executive function) vote on a motion put forward by members and received in compliance with the Procedural Standing Orders contained in Appendix 2 of the Constitution – normally called 'Notices of Motion', as the process requires prior notice to be given of the Motion before it can be debated.

## **4. THE CABINET**

### **4.1 Composition and Role**

- 4.1.1 The Council has chosen to retain executive arrangements and therefore is required by law to have an 'Executive', and has chosen the "Leader and Cabinet" model from the options available. The Leader is appointed by full Council and who is then responsible for making arrangements to discharge executive functions, whether through the Leader personally, Cabinet collectively, individual CMRs, or officers.
- 4.1.2 The Cabinet is not a Committee and is not required to be politically balanced. Its formal meetings are open to the public unless an item qualifies to be dealt with in private (we call it exempt session') in accordance with the Access to Information Rules.
- 4.1.3 The Council appoints the Leader at the first Annual Meeting of the Council after elections for a 4 year term (but can subsequently remove the Leader and appoint another).
- 4.1.4 The Leader is responsible for appointing a Deputy Leader and other members of the Cabinet. The Cabinet comprises the Leader of the Council and up to 9 other Cabinet Members (CMRs). The Cabinet cannot have fewer than 3 members. Council does not appoint CMRs.
- 4.1.5 The Leader presides at meetings of the Cabinet with the Deputy Leader presiding in the Leader's absence. There are no substitutes allowed on Cabinet.
- 4.1.5 The Leader determines the number of areas of political responsibility and their allocation to members of the Cabinet (Cabinet Members with Responsibility -

CMRs). The Leader has decided that 9 members, other than the Leader (who also has responsibility for Finance), shall be CMRs, leading on the matters within the following remits:

- Adult Social Care
- Children and Families
- Economy and Infrastructure
- Educational Skills
- Environment
- Health and Well-being
- Highways
- Communities
- Transformation and Commissioning.

4.1.7 A Cabinet Member with Responsibility can establish ad hoc member advisory groups to assist in policy development or to advise on any difficult issues.

4.1.8 The Leader (or Cabinet) may authorise individual CMRs to take decisions relating to Executive functions either generally or in respect of particular decisions.

4.1.9 The Cabinet (or individual CMRs as delegated) can take decisions on all matters relating to the executive functions of the Council but not those matters which are non-executive functions which:

- are reserved to the full Council (e.g. Budget and Policy Framework, Members' Allowances and Code of Conduct)
- are ones which by law the Cabinet cannot take (e.g. deciding Planning applications and Standards and Ethics matters)
- by choice have not been allocated to the Cabinet.

4.1.10 In general terms, as most functions are the responsibility of the executive, it is the Cabinet or its CMRs who will take the main 'political' decisions in relation to nearly all Council services, as long as they are in line with the Council's Budget and Policy Framework.

4.1.11 Many decision-making powers are delegated to professional officers to allow the day to day operation of services to continue, or the implementation of political policy. The standing delegations are wide-ranging but there are limitations e.g. officers will not generally be taking 'Key Decisions' (see below). The scheme of assignment of responsibility for functions contains the scheme of delegation to officers which allows Directors to sub-delegate further (Appendix 1).

4.1.12 Collectively and individually the Cabinet are subject to the overview and scrutiny arrangements which the Council has established (Section 5 below) as part of the checks and balances for executive arrangements.

## 4.2 Key Decisions

4.2.1 Certain types of decision which are the responsibility of the Leader and Cabinet are called 'Key Decisions'. Only the Cabinet or CMRs take Key Decisions; and

(generally) 28 days advance notice has to be given of them in a public document known in Worcestershire County Council as the Forward Plan (see 4.3 below).

4.2.2 Key decisions are ones discharging executive functions which are likely:

- to result in the County Council incurring expenditure or 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 their effects on communities living or working in an area comprising two or more County electoral divisions (Article 7 of the Constitution).

## 4.3 The Forward Plan

4.3.1 A Forward Plan provides notice of anticipated Key Decisions to be taken by the Cabinet and CMRs. It is prepared on a rolling basis and contains information about the matter for decision, when the decision is likely to be taken and by whom. For transparency, our Forward Plan also includes, as far as practicable, non-Key Decisions going to Cabinet and to CMRs.

4.3.2 The purpose of the Forward Plan is to alert the public and members to when Key Decisions are to be taken so that they are aware of the topic to be considered and can comment to their local Councillor or members of the Cabinet, or attend or view the meeting of Cabinet on webcast.

4.3.3 The Forward Plan is updated on a rolling basis so that as more details become available, more information can be included in the Plan. It is available on the Council's website:  
[http://www.worcestershire.gov.uk/info/20088/about\\_your\\_council/681/worcestershire\\_county\\_councils\\_forward\\_plan](http://www.worcestershire.gov.uk/info/20088/about_your_council/681/worcestershire_county_councils_forward_plan)

4.3.4 The detailed requirements in relation to the Forward Plan are set out in paragraphs 13 - 16 of Appendix 5 (Access to Information Rules).

4.3.5 The Forward Plan will describe the following (so far as available):

- the matter in respect of which the Key Decision is to be taken
- the membership of the Cabinet or the decision-making body
- whether the decision is to be made in public or private
- the date or period for the taking of the decision

4.3.6 There are detailed procedures in Appendix 5 of the Constitution about taking Key Decisions which for some reason have not been included in the Forward Plan in time (paragraph 15) or which are very urgent (paragraph 16). The Overview and Scrutiny Performance Board also has a right to require the Cabinet to report to the Council on Key Decisions which they believe to have been taken otherwise than in accordance with the required procedures (paragraph 17).

## 4.4 Meetings of the Cabinet

- 4.4.1 The Cabinet will meet regularly (usually monthly) during the year, in public unless the matter to be discussed is confidential or exempt and the law allows the meeting in private (e.g. to protect commercial confidentiality). The Leader and Cabinet have agreed to the same public participation rights at public meetings of the Cabinet as for the Council.
- 4.4.2 The Constitution allows certain members to speak at Cabinet meetings (but not to vote). In practice the Leader generally allows any member to contribute to Cabinet discussions. The Chief Officers (or their representatives) will be entitled to be present at all meetings of the Cabinet.
- 4.4.3 The Cabinet will consider reports usually from CMRs, containing recommendations for Cabinet to consider. In addition to notification in the Forward Plan, the reports will normally be publicly accessible at least 5 clear working days before the proposed decision, unless the topic is confidential or exempt
- 4.4.4 As part of the 'checks and balances', decisions taken by the Cabinet or CMRs are subject to the 'call-in' procedures referred to in Section 5 below. Save in the limited circumstances referred to, decisions will not take effect until the fifth working day after publication of the decision to allow the possibility of call-in. The public notice of the decision must say whether implementation is so urgent that it cannot await the outcome of possible call-in and why (see paragraph 4.4.8 below). Urgency of implementation should be specifically addressed in reports.
- 4.4.5 The Leader or Cabinet can delegate CMRs to take decisions, which are not taken in public. However, notice of the topics to be considered by a CMR is published in the Forward Plan, and reports published in advance of the decision.
- 4.4.6 A formal record of decisions of the Cabinet and of CMRs is published and every member notified to commence the potential call-in period; a copy will also be publicly available for inspection on the website and at County Hall, Worcester. These decisions will be published within three working days of the decision (normally circulated on the day of decision) and are the formal record of decisions which acts as the "trigger" for the 'call-in' procedure (see 5.2 below). They will also indicate which items (if any) are urgent so that they are not subject to 'call-in' but fall to be dealt with under the urgency procedures of paragraph 17.16 of Appendix 4 of the Constitution, summarised in 4.4.7 below.
- 4.4.7 Urgent implementation cases will be those where delay likely to be caused by the call-in process could seriously prejudice the Council's or the public's interests, or the interests of any person to whom the decision relates, and the Chairman (or in his absence Vice-Chairman) of the Overview and Scrutiny Performance Board agrees that the decision is urgent and cannot reasonably be deferred. These provisions allow a 'check and balance' allowing a person outside the Cabinet to decide whether or not there should be urgent implementation without the risk of call-in suspending the decision.
- 4.4.8 The Cabinet's own procedures are governed by Appendix 3 of the Constitution. The Cabinet is not a Committee of the Council and can largely govern its own procedure.

## 4.5 Consultation with others

- 4.5.1 Reports to the Cabinet by CMRs or officers about proposals relating to the Council's Policy and Budget Framework must contain details of the nature and extent, and outcome, of consultation with stakeholders and the Overview and Scrutiny Performance Board as appropriate. Reports on other matters will set out the details and outcome of consultation where appropriate.
- 4.5.2 The Cabinet and individual CMRs may make arrangements for consultation about matters for which they are responsible.

## 5. OVERVIEW AND SCRUTINY ARRANGEMENTS

### 5.1 Composition and Role

- 5.1.1 The Council operates executive arrangements and as part of the 'checks and balances' is required by law to have arrangements for Overview and Scrutiny which help develop policies and service delivery, and monitor the performance of the Council and can scrutinise decisions of the Cabinet etc.
- 5.1.2 Any bodies established to carry out Overview and Scrutiny functions have no delegated powers to take decisions on behalf of the Council or overturn decisions of Cabinet or CMRs.
- 5.1.3 The Council has established an over-arching Overview and Scrutiny Performance Board, a Health Overview and Scrutiny Committee, and 4 Overview and Scrutiny Panels, all of which are committees and must be politically balanced. The Overview and Scrutiny Performance Board can establish, as required, specific Scrutiny Task Groups to conduct specific scrutiny tasks e.g. in depth scrutiny issues.
- 5.1.4 The Overview and Scrutiny Performance Board comprises a Chairman and 7 other County Councillors who are known as Scrutiny Lead Members. The Health Overview and Scrutiny Committee comprises 15 Members of which 9 are County Councillors and the remainder are representatives from each of the 6 District Councils in the County. The remaining Overview and Scrutiny Panels comprise the number of County Councillors as determined by Council and are politically balanced.
- 5.1.5 The size of any informal Scrutiny Task Group will vary according to the purpose for which it is established. Task Groups need not be politically balanced, so as to allow Members with a particular knowledge or interest or commitment to take part, and are not formal committees.
- 5.1.6 The Overview and Scrutiny Performance Board, Panel or a Scrutiny Task Group when dealing with education matters will co-opt in a voting capacity non-Councillors as required by law (church and parent governor representatives). Scrutiny Task Groups invite other non-Councillors to serve in a non-voting capacity to assist in their work.

- 5.1.7 Cabinet Members cannot serve on the Overview and Scrutiny Performance Board or any other scrutiny body.
- 5.1.8 The main responsibilities of the Overview and Scrutiny Performance Board include agreeing the Scrutiny Work Programme (subject to Council approval), commissioning work for the Panels, establishing Scrutiny Task Groups to carry out scrutiny exercises, and agreeing their terms of reference and reports. It also advises on the Council's Policy Framework, such as the Corporate Plan and can deal with the call-in of decisions made by the Cabinet. The Health Overview and Scrutiny Committee scrutinises matters relating to health services in the County and responds to consultation from the National Health Service on substantial proposed developments.
- 5.1.9 The Overview and Scrutiny Bodies have extensive powers to conduct research, carry out consultations, investigate, undertake visits, encourage community participation, liaise with other organisations, gather evidence, invite advisers and experts to assist them and question Cabinet members and (in some circumstances) Chief and senior officers about their decisions and performance.
- 5.1.10 As part of the Scrutiny role members have certain additional rights to documents set out in paragraphs 23 and 24 of Appendix 5 (Access to Information Rules).
- 5.1.11 Decisions taken by officers under delegated powers cannot be called-in. This does not however prevent a questioning of a Chief or senior officer as part of a wider scrutiny exercise.
- 5.1.12 Scrutiny arrangements are governed by the Overview and Scrutiny Procedure Rules in Appendix 4 of the Constitution.

## 5.2 Call-in

- 5.2.1 In monitoring the decisions of Cabinet or of individual CMRs, a specified number of members who are not on the Cabinet can "call-in" a non-urgent decision which has been made but not yet implemented. The right of call-in should only be used in exceptional circumstances when there is evidence to suggest that the Cabinet or CMR has departed from the principles of decision-making set out in the Articles. It is not there to be used just because other members do not agree with the decision!
- 5.2.2 All members will receive an electronic link to the decisions of Cabinet within three working days (usually earlier) and, unless it is identified as urgent, the decision which the Cabinet has taken will not take effect until the fifth working day after the publication of the decision. During the intervening period:
- no fewer than 2 members of the Overview and Scrutiny Performance Board **or**
  - 8 members of the Council who are not members of the Cabinet
- may "call-in" (with reasons) the Cabinet decision. It will then be referred to a meeting of the Overview and Scrutiny Performance Board which will decide on the most appropriate way of dealing with the call-in.
- 5.2.3 The called-in Cabinet decision is then not implemented until either:

- the Overview and Scrutiny Performance Board has accepted the decision (with or without comment), or
- the Overview and Scrutiny Performance Board has referred the decision back to the Cabinet for reconsideration, and it has been reconsidered by Cabinet.

5.2.4 The right of call-in is an important 'check and balance' in enabling members who are not Cabinet members to challenge Cabinet decisions before they are implemented.

5.2.5 The first three members exercising the right of call-in and who are not either 'local members' or members of the Overview and Scrutiny Performance Board, Panel or Scrutiny Task Group set up to consider the call-in, are entitled to attend the meeting at which the called-in matter is discussed and to speak on it (but not vote).

5.2.6 The Chairman or Vice-Chairman of the Overview and Scrutiny Performance Board may attend and speak (but not vote) at the meeting of the Cabinet at which the Board's views are being considered.

5.2.7 Reference to the full Council would only be appropriate if the decision called-in is one which the Overview and Scrutiny Performance Board believes:

- the Cabinet cannot in law take, or
- is reserved to the full Council, or
- raises issues of such exceptional significance and public interest to justify reference to the full Council, although the final decision rests with the Cabinet, or
- is contrary to the policy framework or contrary or not wholly in accordance with the budget.

5.2.8 Details of the call-in procedure are included in the Overview and Scrutiny Procedure and Budget and Policy Framework Rules (Appendix 4 and 6 respectively of the Constitution).

5.2.9 The operation of call-in is monitored and the Council may change the arrangements if the arrangements are being abused (paragraph 17.1 of Appendix 4).

## 6. OTHER COMMITTEES etc

### 6.1 Composition and Roles

6.1.1 Certain 'non-executive' matters cannot by law be dealt with by the Cabinet. Apart from those reserved to the full Council, these are in the main planning and regulatory functions, though there are some others.

6.1.2 The Planning and Regulatory Committee carries out the planning, and other licensing, registration and regulatory functions which cannot be the responsibility of the Cabinet.

- 6.1.3 The Audit and Governance Committee's main role is to consider and approve the Council's annual statement of accounts, to assure the Council about the objectivity and fairness of the financial reporting and performance of the Council, the adequacy of the risk management framework and associated controls within the Council, and that any issues arising from the drawing up, auditing and certifying of the Council's accounts are properly dealt with.
- 6.1.4 The Waste Credit Governance Committee considers the Council's role as lender to the Waste Contractor, and the Pensions Committee acts as the superannuation scheme manager. The Pensions Committee acts as the local government pension manager.
- 6.1.5 The Council has an Appellate Panel from which the Assistant Director for Legal and Governance will select a small number of members to form individual panels to carry out various appellate functions.
- 6.1.6 The Standards and Ethics Committee is responsible for the ethical framework for members within the Council and for promoting and maintaining high standards of conduct by members and co-opted members. It can establish sub-committees to deal with complaints about alleged breaches by a member of the Code of Conduct.
- 6.1.7 An Appointments etc Panel is called when required to carry out the functions set out in the Officer Employment Procedure Rules such as appointment and dismissal in relation to the Chief Executive (Head of Paid Service), Directors and Heads of Service.
- 6.1.8 Joint consultation/negotiation member/employee committees exist under separate constitutions.
- 6.1.9 The Cabinet has established a West Mercia Energy joint committee and a Joint Museums Committee. Partnership arrangements are also in place for the Health and Well-being Board and the West Mercia Police and Crime Panel.
- 6.1.10 Details relating to all the above Committees are contained in the Scheme of Assignment of Responsibility for Functions (Appendix 1).

## 7. MEMBERS

### 7.1 Service on the Cabinet

- 7.1.1 Every member of the Council, except the Chairman and Vice-Chairman of the Council, is eligible to serve on the Cabinet.

### 7.2 Service on the Scrutiny bodies

- 7.2.1 Every member is eligible to serve on the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panels and Task Groups, except Cabinet Members.

- 7.2.2. Members who serve on Scrutiny bodies will have been selected because of their knowledge, interest or commitment and will have a substantial input into the scrutiny of the policies of the Council and decisions of the Cabinet/CMRs, and monitoring of performance. Members' roles will increasingly focus on contributing to and influencing future policy; and reviewing, scrutinising and calling to account the policies and decisions of the Cabinet/CMRs in the context of their impact on the Council and on the communities and people the Council serves.
- 7.2.3 Members also have the opportunity of questioning the Leader of the Council and CMRs at meetings of the Council.

### 7.3 Service on Other Committees, etc

- 7.3.1 All members of the Council are eligible to serve on the Planning and Regulatory and Audit and Governance Committees.
- 7.3.2. All members of the Council are eligible to serve on the Standards and Ethics Committee, except that not more than one member of the Cabinet (who cannot be the Leader) may serve.
- 7.3.3. All members of the Council are eligible to serve on appeals panels unless they have had prior involvement in the particular case.
- 7.3.4 All members of the Council are eligible to serve on an Appointments etc Panel, except that each Panel must include at least 2 Cabinet members (3 in the case of the Head of Paid Service).
- 7.3.5 The Chairman and Vice-Chairman of the Council may not concurrently be the Chairman of any other Committee of the Council (with the exception of SACRE – an advisory body on religious education).
- 7.3.6 Members may be nominated to some outside or other bodies.

### 7.4 Substitution

- 7.4.1 There can be no substitution for members of the Cabinet.
- 7.4.2 There can be no substitution on the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee or any Overview and Scrutiny Panel or Task Group.
- 7.4.3 Substitution may be allowed on any other Committee provided the substitute member is eligible to serve (e.g. having undertaken relevant specific training required for the Planning and Regulatory Committee).

### 7.5 Local Member

- 7.5.1 If an item coming before the Cabinet, a Committee or Scrutiny body is likely to be of particular interest to a member representing an electoral division to which the item relates or affects, he or she can attend and speak at (but not vote) at the meeting – and may submit written representations.

## 7.6 Involvement in Budget and Policy Framework

- 7.6.1 Budget and Policy Framework Procedure Rules are set out in Appendix 6. These set out the procedure by which the Cabinet in consultation with the Overview and Scrutiny Performance Board will draw up proposals for the budget and policy framework of the Council. It includes provision for situations in which the Council does not accept the proposals of the Cabinet, in which case the Council's decisions will only come into effect after 5 working days unless the Leader of the Council objects, in which case a further meeting of the Council will be held. The rules also set out the procedure for dealing with decisions (including urgent ones) outside the budget and policy framework.

## 7.7 Members' Allowances

- 7.7.1 Members may receive the allowances contained in the Scheme for the Payment of Councillors' Allowances (Appendix 13 of the Constitution). These are set by Council having regard to any recommendations made by an Independent Remuneration Panel.

## 7.8 Ethical Framework

- 7.8.1 Appendix 10 sets out the Members' Code of Conduct. The Council also has a Member Planning Code of Conduct. The Council, other members, officers and the public are entitled to expect high standards of conduct from members.
- 7.8.2 A protocol for member/officer relationships is included at Appendix 12 of the Constitution.

## 7.9 Access to Information

- 7.9.1 The Constitution sets out in Appendix 5 (Access to Information Rules) arrangements for public access to information linked to the democratic process.
- 7.9.2 The Rules also prescribe other information available in connection with overview and scrutiny arrangements (paragraph 23) and additional rights of access for members (paragraph 24).

## 7.10 Member Role Descriptions

- 7.10.1 A number of role descriptions have been produced setting out the duties and responsibilities of a councillor and various other positions held (such as the Leader, CMR's and Overview and Scrutiny Performance Board Chairman, etc). These are included in Appendix 12 of the Constitution.

## 8. OFFICERS

The County Council has paid staff working for it ("officers") to give advice, implement decisions taken by Councillors and manage and take operational or professional day to day decisions in the delivery of the Council's services.

### 8.1 Designations

8.1.1 Some officers have, by law, a specific duty to ensure that the Council acts within the law and e.g. uses its resources wisely. The following officers have been designated to hold four statutory offices:

- Head of Paid Service – Chief Executive
- Monitoring Officer – Assistant Director for Legal and Governance
- Chief Financial Officer
- Scrutiny Officer – Democratic Governance and Scrutiny Manager.

8.1.2 Officers are organised into a number of Directorates, each led by a Strategic Director (sometimes known as a Chief Officer) reporting to the Chief Executive.

- Chief Executive
- Strategic Director for People
- Strategic Director for Commercial and Change
- Strategic Director for Economy and Infrastructure

8.1.3 Each Chief Officer has staff to undertake the tasks of delivering the Council's services and supporting the corporate management of the Council.

### 8.2 Delegations

8.2.1 Chief Officers have delegated powers to take a range of decisions on behalf of the Cabinet and the other Committees etc with decision-making powers. In turn Chief Officers can delegate to other officers. The scheme of assignment of responsibility for functions (Appendix 1) sets out the scheme of delegation to officers; local schemes of sub-delegation will be held by Directorates.

8.2.2 The scheme sets out general delegations and responsibilities which all Chief Officers have, such as the need to act within the policies and budget of the Council, its constitution, the taking of decisions in connection with staff employment and establishment matters, the management of assets allocated to the respective service and the entering into of partnership or contractual arrangements. It also sets out functions and responsibilities specifically delegated to a particular Chief Officer.

8.2.3 It also contains restrictions on the way officers carry out their functions and reminds officers that whilst day to day operational decisions will mainly be taken without consultation with members, there is a need in certain circumstances to consult with relevant members before deciding whether to exercise delegated powers.

8.2.4 It is the duty of any Chief Officer or other officer exercising delegated powers to keep relevant members including local members properly informed of activity arising within the scope of delegated powers in accordance with the Constitution. Significant decisions which affect the public or a locality, made by an officer, will normally be recorded and published on the website.

### **8.3 Financial Regulations**

8.3.1 Financial Regulations are set out in Appendix 7 and establish a framework for the proper administration and control of the Council's financial affairs.

8.3.2 In essence, the Financial Regulations set out the frameworks for:

- Financial Administration
- Accounting Systems / Accounting Records
- Audit
- Budget Responsibilities
- Budget Preparation
- Procurement of Works, Goods, Materials and Services
- Payment for Works, Goods, Materials and Services
- Payments to Employees and Former Employees
- Income
- Banking
- Borrowings, Other Capital Financing and Investments
- Trustees, Receivers, Appointees and Agents
- Assets
- Insurance
- Ex Gratia Payments
- Preparation of Statutory Financial Statements
- Applications and Claims for Grant or Subsidy.

8.3.3 To supplement these framework provisions, the Chief Financial Officer will issue detailed Financial Procedures which must be complied with as if they were Financial Regulations.

### **8.4 Contract Standing Orders**

8.4.1 Appendix 8 includes the Council's Current Contract Standing Orders which set the framework for the acquisition and disposal of goods, works and services.

8.4.2 The Corporate Procurement Strategy and Code set out detailed arrangements.

### **8.5 Employment Procedures**

8.5.1 Appendix 9 of the Constitution sets out the Officer Employment Procedure Rules.

8.5.2 In essence, all appointments other than:

- Chief Executive
- Strategic Directors

- Assistant Directors (including the Director for Public Health)

must be made by officers and cannot be made by Members. Appointments of all posts of Head of Service of above will be made by the Appointments Etc Panel who also deal with the discipline and dismissal of those officers; appointment of the Chief Executive must be made by full Council. Council has additional roles in respect of dismissals of the Chief Executive (as Head of Paid Service), Monitoring Officer and Chief Financial Officer as set out in that Appendix.

8.5.3 The power delegated to Directors to take decisions about staffing and personnel matters is set out in Appendix 9.

## **8.6 Officers' Code of Conduct**

8.6.1 The Council's Officers' Code of Conduct is contained in Appendix 11.

## **9. CONCLUSION**

9.1 This Guide seeks to simplify some of the complexities of the Constitution but is not a substitute - reference should be made to the Constitution for the detailed provisions applicable in any situation or circumstance under discussion or ask for advice from the Assistant Director for Legal and Governance or Democratic Governance and Scrutiny manager. A printed copy of the Constitution is available in the members' area, and it is available on the Council's website.

9.2 The Assistant Director for Legal and Governance Services and his staff will always try to assist on any point of interpretation of the Constitution, or on what is said in this Guide.

**Simon Mallinson**  
**Assistant Director for Legal and Governance**  
**January 2020 v1**

# **ARTICLES OF THE CONSTITUTION**

**August 2019**

## ARTICLES OF THE CONSTITUTION

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## **ARTICLE 1 – THE CONSTITUTION**

### **The Constitution**

- (a) The Articles, and all appendices, comprise the Constitution of Worcestershire County Council.
- (b) The Council has adopted executive arrangements as the basis for its Constitution. Following public consultation, it has adopted the 'new style' Leader and Cabinet Executive (England) model with effect from 7 June 2009. The Constitution and particularly the following parts of it set out the executive arrangements:
  - (i) Article 6 (The Leader of the Council and the Cabinet) and Appendix 3 (Cabinet Procedure Rules).
  - (ii) Article 7 (Decision-Making) and Appendix 5 (Access to Information Rules).
  - (iii) Article 8 (Overview and Scrutiny Arrangements) and Appendix 4 (Overview and Scrutiny Procedure Rules).
  - (iv) Appendix 1 (Scheme of Assignment of Responsibility for Functions).

### **1.2 Powers of the County Council**

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

### **1.3 Purpose of the Constitution**

The purpose of the Constitution is to:

- (a) enable the County Council (in partnership with citizens, businesses and other organisations as appropriate) to provide broad leadership to and support for the communities of Worcestershire to improve their economic social and environmental well-being;
- (b) support the involvement of citizens in the process of local authority decision-making;
- (c) help Councillors represent their constituents more effectively;
- (d) make clear how the Council is to operate, and enable decisions to be taken efficiently and effectively;
- (e) create a rigorous means by which decision-makers can be held to public account;
- (f) ensure that no one will formally review or scrutinise a decision in which they have been directly involved;

- (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 to meet the County Council's vision, as expressed in the policy themes in the Council's Corporate Plan.

#### **1.4 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.

#### **1.5 Previous Policies/Decisions**

Unless negated by a provision of the Constitution, any decision made by or on behalf of the County Council and any plan, budget, policy or strategy approved by or on behalf of the County Council prior to the coming into effect of the Constitution shall have effect and apply as if it had been made in accordance with the requirements of the Constitution and shall remain in force as a decision or plan or budget or policy or strategy under the Constitution unless and until and to the extent that it is amended varied or replaced.

#### **1.6 Interpretation**

Throughout this Constitution references to the masculine gender shall be taken to mean both the masculine and the feminine gender and expressions in the singular shall include, where appropriate, the plural.

### **ARTICLE 2 – MEMBERS OF THE COUNTY COUNCIL**

#### **2.1 Composition and eligibility**

- (a) Composition - The Council has 57 members, otherwise called Councillors, as may be elected by the voters of each electoral division within the county in accordance with a scheme approved by the Local Government Boundary Commission for England and implemented by statutory order.
- (b) Eligibility - Legislation governs the eligibility of candidates to be elected but in summary only registered voters of the county area or those living, working or occupying land there will be eligible to be elected to the office of Councillor.

## **2.2 Election and terms of Councillors**

The regular election of Councillors will be held on the first Thursday in May every four years from 2017 unless alternative legal provision is made. 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. A by-election may be held if a vacancy occurs in a division between each regular election, except if such vacancy occurs within 6 months of the date of the next regular election.

(Note - the next regular election will be held in May 2021)

## **2.3 Roles and functions of all Councillors**

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

All Councillors will:

- i. collectively be the ultimate policy-makers as set out in the Constitution and carry out strategic and corporate management functions;
- ii. contribute to the good governance of the area and encourage community participation and citizen involvement in decision-making;
- iii. effectively represent the interests of their electoral divisions and of individual constituents and bring their views into the Council's decision-making process;
- iv. respond to constituents' enquiries and representations fairly and impartially;
- v. participate in the governance and management of the Council, including scrutiny arrangements as appropriate;
- vi. be available to represent the Council on other bodies; and
- vii. maintain the highest standards of conduct and ethics in the conduct of the business of the Council or their office and comply with their Code of Conduct.

### **(b) Rights and duties**

- i. Councillors will have such rights of access to such documents and information 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; and
- iii. for these purposes, "confidential" and "exempt" information are defined in legislation and the Access to Information Rules in Appendix 5 of this Constitution.

### **(c) Role descriptions**

The County Council has agreed role descriptions for Councillors and the various office holders in the County Council and will keep these under review. These are contained, together with any protocols, in Appendix 12.

## **2.4 Conduct**

Councillors will at all times observe the Members' Code of Conduct as adopted from time to time and any Protocol on Member/Officer Relations as adopted from time to time (set out in Appendices 10 and 12 of this Constitution) and the conduct provisions of the Procedural Standing Orders (set out in Appendix 2) at meetings to which they apply.

## **2.5 Allowances**

Councillors will be entitled to receive allowances in accordance with the Councillors' Allowances Scheme set out in Appendix 13 of this Constitution.

# **ARTICLE 3 – CITIZENS AND THE COUNTY COUNCIL**

## **3.1 Citizens' rights**

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Appendix 5 of this Constitution:

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

Citizens on the electoral roll for the county area have the right to vote and to sign a petition to request a referendum for an elected mayor form of Constitution in accordance with legal provisions.

### **(b) Information**

Citizens have the right in accordance with the Access to Information rules and the law to:

- i. attend meetings of the County Council, the Cabinet and Committees of the Council (as defined in Article 7 and the law) except where confidential or exempt information is likely to be disclosed, and the meeting or agenda item is therefore closed to the press and public;
- ii. attend meetings of the Cabinet when 'key decisions' are being taken, except where confidential or exempt information is likely to be disclosed, and the meeting or agenda item is therefore closed to the press and public;
- iii. find out from the Forward Plan what key decisions will be taken by the Cabinet or other executive decision-makers and when;
- iv. see reports and background papers, and any records of decisions made by the Council, the Cabinet, and Committees of the Council, which are open to the public; and
- v. inspect and object to the Council's accounts and make their views known to the external auditor.

### **(c) Participation**

Citizens have the right to participate at meetings of the Council, the Cabinet, and Committees of the Council (unless different arrangements are made in particular cases) by the presentation of a petition, submission of a question or the making of comments in accordance with the procedure set out in the Council's Procedural Standing Orders (Appendix 2). Separate arrangements exist for addressing the Planning and Regulatory Committee in respect of planning applications.

The Council encourages Citizens and any other non-Councillors with relevant expertise and knowledge to be involved and participate as part of its overview and scrutiny arrangements.

### **(d) Complaints**

Citizens have the right to complain to:

- i. the Council itself under its Corporate Representations Procedure (Comments, Compliments and Complaints);
- ii. the Ombudsman after using the Council's Corporate Representations Procedure (Comments, Compliments and Complaints);
- iii. the Monitoring Officer/Standards and Ethics Committee of the Council about a breach of the Members' Code of Conduct.

## **3.2 Citizens' responsibilities**

Citizens must not be violent, abusing or threatening to Councillors or officers and must not wilfully harm things owned by the County Council, Councillors or officers.

## **3.3 Equal Opportunities**

The County Council values the rich diversity of Worcestershire's local community and is committed, through effective dialogue with key interest groups, to promoting equal opportunities for all, regardless of social, ethnic or economic background and to ensure effective compliance with equal opportunity employment practices within the Council.

## **ARTICLE 4 – THE FULL COUNCIL**

### **4.1 Functions**

- (a) There are certain functions the responsibility for which and/or the exercise of which the Council must, by law, reserve to itself or has chosen to do so. These are contained in Appendix 1 which sets out the assignment of responsibility for

the functions not only of the Council itself but also for executive functions, overview and scrutiny functions and other non-executive functions.

(b) In summary, the main functions which the Council itself carries out are:

- i. adopting and changing the Articles of the Constitution or authorising such adoptions and changes;
- ii. approving the 'Policy Framework' of the Council (meaning the plans and strategies which are required to be adopted by Council under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended or those which may be and have been so adopted as part of its policy framework from time to time, as set out in Appendix 1), the Budget, and Members' codes of conduct;
- iii. appointment of the Chairman, Vice-Chairman and Leader of the Council;
- iv. establishing committees and their terms of reference for functions which are not the responsibility of the executive and appointing Chairmen and Vice-Chairmen of them, and appointing other positions in accordance with the Constitution of the Council;
- v. adopting a Councillors' allowances scheme;
- vi. making and amending byelaws, promoting or opposing local legislation in Parliament;
- vii. considering in certain circumstances overview and scrutiny reports; and
- viii. any other matter which by law must be reserved to the Council or which maybe and has been so reserved.

NB: The functions of full Council are set out in more detail in Appendix 1. As a result of the adoption of executive arrangements under the Local Government Act 2000 as amended, full Council or its committees cannot deal with matters which are the responsibility of the Executive (i.e. Leader and Cabinet) referred to as Executive functions. Non-Executive functions are those which by law must not be the responsibility of the Executive. Local Choice functions are those where there is a choice as to whether the Executive or another part of the Council exercise them.

## **4.2 Council Meetings**

There are three types of County Council meeting:

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

and they will be conducted in accordance with the Procedural Standing Orders in Appendix 2 of this Constitution.

## **ARTICLE 5 – THE CHAIRMAN OF THE COUNTY COUNCIL**

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

- (a) The Chairman and Vice-Chairman of the County Council will be elected by the Council annually.
- (b) The Chairman of the County Council, and in his/her absence, the Vice-Chairman, will have the following roles and functions:
  - i. to be the Civic Leader of Worcestershire;
  - ii. to promote the interests and reputation of the County Council and of Worcestershire as a whole, to act as an ambassador for both, to foster community identity and pride and to promote public involvement in the Council's activities;
  - iii. to undertake civic community and ceremonial functions;
  - iv. to uphold and promote the purposes of the Constitution;
  - v. to preside over meetings of the Council so that its business can
  - vi. be carried out fairly and efficiently and with regard to the rights of Councillors and the interests of the community;
  - vii. to ensure that the Council meeting is a forum for the debate of
  - viii. matters of concern to the local community and a place at which members hold the Leader and Cabinet to account;
  - ix. to determine any matter referred to him/her in relation to matters requiring an urgent decision pursuant to paragraph 17.16 of Appendix 4 (call-in), paragraph 16 of Appendix 5 (urgent decisions) or paragraph 4 of Appendix 6 (urgent decisions outside budget and policy framework) of this Constitution;
  - x. to serve on any other bodies either within or outside the Council as appropriate or attend related events and conferences.
- (c) Neither the Chairman nor Vice-Chairman of Council may be appointed to the Cabinet.
- (d) Neither the Chairman nor Vice-Chairman of Council may be the Chairman of any Committee of the Council.

## **ARTICLE 6 – THE LEADER OF THE COUNCIL AND CABINET**

### **6.1 Role**

The Council has adopted the Leader and Cabinet Executive (England) governance model for its executive arrangements. The Leader of the Council is responsible for the discharge of such functions as are the responsibility of the Executive of the Council i.e. all functions which by law must be the responsibility of the Executive or which are not the

responsibility of any other part of the Council whether by law or under this Constitution ('executive functions'). The Leader may make such arrangements as the Leader thinks fit from time to time for the delegation and discharge of executive functions.

## **6.2 Form and Composition of Cabinet**

- (a) The Leader of the Council is responsible for the appointment of the Cabinet which will consist of the Leader and not less than 2 nor more than 9 other Councillors, as the Leader shall determine. The Leader will allocate areas of political responsibility to members of the Cabinet as the Leader shall determine from time to time. The Leader may change the size of Cabinet (within the above parameters) and appointments to it at any time. Areas of political responsibility are set out in Appendix 1.
- (b) One of the members of the Cabinet will be designated by the Leader as Deputy Leader, to hold office until the end of the Leader's term of office, unless the Deputy Leader resigns, ceases to be a member, is disqualified, or is removed by the Leader at any time.
- (c) If for any reason the Leader is unable to act, or the office of Leader is vacant, the Deputy Leader must act in the Leader's place. 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.
- (d) The Cabinet is not a Committee of the Council. Its composition is not required to be in accordance with the political balance of the Council.
- (e) The Cabinet collectively, individual members of the Cabinet or officers will be responsible for the discharge of such functions of the executive as are allocated by the Leader of the Council from time to time (set out in Appendix 1).

## **6.3 Leader**

The Leader of the Council will be a Councillor elected to that position by the County Council. The Leader will hold office until the first meeting of the Council following the next regular election unless:

- (a) he or she resigns from the office of Leader; or
- (b) he or she is disqualified from being or remaining a Councillor; or
- (c) he or she is no longer a Councillor of the Council for any reason; or
- (d) he or she is removed from office by a ordinary resolution on notice by the County Council at any time during the Leader's term of office (and in which case Council will elect a new Leader at that or a subsequent meeting).

#### **6.4 Other Cabinet Members**

- (a) Only Councillors may be appointed to the Cabinet by the Leader as above and there may be no co-optees and no Deputies nor Substitutes for Cabinet Members upon the Cabinet.
- (b) Neither the Chairman nor Vice-Chairman of the Council will be appointed to the Cabinet. Members of the Cabinet will not serve on the Overview and Scrutiny Performance Board or Overview and Scrutiny Panels or exercise Overview and Scrutiny functions.
- (c) A Cabinet Member shall hold office in the Cabinet until:
  - i. he or she resigns from office; or
  - ii. he or she is disqualified from being or remaining a member or is no longer a Councillor for any reason; or
  - iii. he or she is removed from office by the Leader of the Council.
- (d) If any Cabinet member, including the Leader, fails for 6 months to attend any meeting of the Cabinet, or any committee of it, then unless the failure was due to some reason approved by or on behalf of the Council, he/she shall cease to be a member of the Council in accordance with the provisions of the Local Government Act 1972.

[Note – any Councillor becomes disqualified if he or she fails for 6 months to attend any meeting of the authority without prior approval as above]

#### **6.5 Cabinet Members with Responsibility**

- a) The Leader will decide on the number, and extent of areas of responsibility of Cabinet members and will decide to which members of the Cabinet such areas of responsibility shall be allocated; and
- b) The Leader will decide the extent to which responsibility for formal decision-making for functions of the executive is held collectively by the Cabinet, by individual members of the Cabinet or officers.

#### **6.6 Role description / protocols**

Role descriptions and protocols governing how Cabinet Members with Responsibility should carry out their responsibilities are contained in Appendix 12.

## **6.7 Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Appendix 3 of this Constitution.

## **6.8 Responsibility for functions**

- (a) Appendix 1 sets out the functions assigned to the Cabinet and officers;
- (b) Unless delegated to an individual officer or Cabinet member, the Leader may determine that the responsibility of the Cabinet for the exercise of an executive function and decision-making is collective;
- (c) The Leader may at any time delegate any responsibility of the Leader or the Cabinet for the exercise of an executive function to any Cabinet Member with Responsibility or any other individual member of the Cabinet, or officer;
- (d) The Leader or Cabinet, in relation to an executive function, may specify that a particular decision which would otherwise fall within a power delegated to an officer in accordance with the Scheme of Delegation to Officers shall not be exercised by that officer but shall be reserved or referred to the Leader, Cabinet or an individual Cabinet member for that decision to be made.
- (e) An officer may decide not to exercise any executive function delegated to him/her and invite the Leader or Cabinet to take a particular decision in relation to that function.

## **ARTICLE 7 – DECISION-MAKING**

### **7.1 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 which are not the responsibility of the executive. The Leader will do the same with respect to executive functions. These records are collectively set out in Appendix 1 of this Constitution (Scheme of Assignment of Responsibility for Functions) and may change from time to time.

### **7.2 Principles of decision-making**

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

- (a) due regard to all relevant and material considerations and without regard to any irrelevant considerations;

- (b) where appropriate, the realistic evaluation of alternatives;
- (c) proportionality (i.e. the action must be proportionate to the desired outcome);
- (d) due consultation and the taking of professional advice from officers;
- (e) respect for human rights and equalities;
- (f) a presumption in favour of openness;
- (g) clarity of aims and desired outcomes; and
- (h) reasons being given for the decision, as appropriate.

### **7.3 Key decisions**

- (a) A 'key decision' is one made in the exercise of an executive function which is likely:
  - i. to result in the County 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 electoral divisions in the county area.
- (b) The Leader, Cabinet member or Cabinet may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Appendix 3 of this Constitution and the provisions of paragraphs 13 to 24 of the Access to Information Rules set out in Appendix 5 of this Constitution.
- (c) An officer may be specifically delegated authority to take a key decision but in general a key decision shall not constitute an action or decision taken by a Chief Officer under delegated powers which is in the furtherance of the day to day administration of the service for which the Chief Officer is responsible.

### **7.4 Decision-making by the full Council**

Subject to Article 7.9 the County Council meeting will follow the Procedural Standing Orders set out in Appendix 2 of this Constitution when considering any matter.

### **7.5 Decision-making by the Cabinet**

Subject to Article 7.9, the Cabinet will follow those parts of the Procedural Standing Orders set out in Appendix 2 which may apply to it and the Cabinet Procedure Rules set out in Appendix 3 of this Constitution when considering any matter. The procedures

relating to the taking of key decisions are set out in paragraphs 13 to 24 of Appendix 5 of this Constitution (Access to Information Rules).

## **7.6 Overview and Scrutiny**

- (a) Subject to Article 7.9, the Overview and Scrutiny Performance Board and the Health Overview and Scrutiny Committee and the formal Overview and Scrutiny Panels as indicated in Article 8 will, when considering any matter, follow those parts of the Procedural Standing Orders set out in Appendix 2 of this Constitution which may apply to them, and the Overview and Scrutiny Procedure Rules set out in Appendix 4 of this Constitution.
- (b) The Overview and Scrutiny Performance Board and the Health Overview and Scrutiny Committee have no executive decision-making powers in relation to the functions within their scope, nor does any Overview and Scrutiny Panel or Task Group established by the Council or Overview and Scrutiny Performance Board.
- (c) Scrutiny Task Groups will follow those parts of the Overview and Scrutiny Procedure Rules set out in Appendix 4 as apply to them.

## **7.7 Decision-making by other Committees established by the Council**

Subject to Article 7.9 other Council Committees (and any Sub-Committees) will follow those parts of the Procedural Standing Orders set out in Appendix 2 of this Constitution as apply to them. 'Committees' for the purposes of this Constitution comprise those Committees and Panels of the Council established under Articles 8, 9 and 10 and for the avoidance of doubt include the Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee, the Overview and Scrutiny Panels but not Scrutiny Task Groups, the statutory Standing Advisory Council on Religious Education (SACRE) nor Joint Committees operating under their own rules of procedure.

## **7.8 Decision-making by Officers**

Subject to Article 7.9 certain officers are empowered to take decisions on behalf of the County Council in accordance with the provisions of the Constitution and scheme of delegation to officers in Appendix 1 of this Constitution. These provisions relate to both executive and non-executive functions.

## **7.9 Decision-making by Council bodies acting in a quasi-judicial or appellate capacity**

The Council, Councillors, a Councillor or an officer acting as a tribunal or as an appellate body or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will proceed in accordance with the requirements of natural justice and the Human Rights Act 1998.

## ARTICLE 8 – OVERVIEW AND SCRUTINY ARRANGEMENTS

### 8.1 Establishment

- (a) The Council will appoint an Overview and Scrutiny Performance Board which will have the role and functions as set out in the Scheme of Assignment of Responsibility for Functions (Appendix 1);
- (b) The Council will appoint a Health Overview and Scrutiny Committee and four Overview and Scrutiny Panels as set out below. Their respective roles and functions are set out in the Scheme of Assignment of Responsibility for Functions (Appendix 1):
- Adult Care and Well-Being Overview and Scrutiny Panel
  - Children and Families Overview and Scrutiny Panel
  - Economy and Environment Overview and Scrutiny Panel
  - Corporate and Communities Overview and Scrutiny Panel
- (c) The Overview and Scrutiny Performance Board will comprise a Chairman and Vice-Chairman and 6 other Councillors, one of whom will chair the Health Overview and Scrutiny Committee and four of whom will chair and lead the work of the Overview and Scrutiny Panels;
- (d) Places on the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee and Overview and Scrutiny Panels will be allocated in accordance with the political balance of the Council;
- (e) The Chairman of the Overview and Scrutiny Performance Board will not be a member of a political group forming part of the ruling administration. The Chairman will not, however, hold the position of a Group Leader within the Council;
- (f) The Health Overview and Scrutiny Committee will comprise 15 Members. In addition to 9 County Councillors, each District Council within Worcestershire will nominate one member to serve and who will be entitled to vote. The Chairman will be a County Councillor appointed by the Council and the Vice-Chairman will be selected by District Council representatives from amongst the District Council representatives serving on the Committee and approved by Council;
- (g) The Overview and Scrutiny Panels will comprise the number of members as determined by Council. The Overview and Scrutiny Performance Board and Overview and Scrutiny Panels will co-opt in a voting capacity such non-Councillors as required by law when dealing wholly or in part with education matters. Other non-Councillors may be co-opted in a non-voting capacity as and when required;
- (h) All members (other than Cabinet Members) are, irrespective of political group, eligible to serve on the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panels or any Scrutiny Task Groups;

- (i) Any Scrutiny Task Group established by the Overview and Scrutiny Performance Board will be led by an identified member of the Overview and Scrutiny Performance Board. The Chairman of the Overview and Scrutiny Performance Board is not expected to lead a Scrutiny Task Group carrying out an in-depth scrutiny. The size of each Scrutiny Task Group will vary according to the purpose for which it is established and its membership shall be agreed by the Overview and Scrutiny Performance Board in consultation with leaders of the political groups;
- (j) Scrutiny Task Groups will not be established as Committees of the Council for the purposes of the Council's Procedural Standing Orders or Access to Information Rules. Places on Scrutiny Task Groups need not be allocated strictly in accordance with the political balance of the Council. Instead, the principle of proportionality will be applied more flexibly to enable members with a particular knowledge or interest or commitment to take part in a particular Scrutiny Task Group;
- (k) The Chairman of the Overview and Scrutiny Performance Board and Lead Scrutiny Members will be appointed by Council;
- (l) No substitute membership is permitted on the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panels or Scrutiny Task Groups.

## **8.2 Proceedings and reports**

- (a) The Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee and Overview and Scrutiny Panels will conduct their proceedings in accordance with those Procedural Standing Orders (Appendix 2) as apply to them and in accordance with the Overview and Scrutiny Procedure Rules set out in Appendix 4.
- (b) Scrutiny Task Groups will conduct their proceedings in accordance with those parts of the Overview and Scrutiny Procedure Rules set out in Appendix 4 as apply to them.
- (c) The outline Scrutiny Work Programme developed by the Overview and Scrutiny Performance Board will be approved from time to time by Council.
- (d) The Overview and Scrutiny Performance Board will submit an Annual Scrutiny Report to the Council as part of the overview and scrutiny arrangements.

## **8.3 General role**

The terms of reference of the Scrutiny bodies are set out in Appendix 1. In summary their role is to:

- (a) assist the Council and Leader and Cabinet in the development of its budget and policy framework or other policy matters;

- (b) review or scrutinise decisions or actions taken in connection with the discharge of any of the Council's functions; and
- (c) exercise call-in powers in respect of executive decisions not yet implemented in accordance with Appendix 4.

## **ARTICLE 9 – PLANNING, REGULATORY, AUDIT AND APPELLATE AND OTHER FUNCTIONS**

**9.1** The Council will establish the Planning and Regulatory Committee which will carry out the functions set out in the Scheme of Assignment of Responsibility for Functions (Appendix 1). The Chairman and Vice-Chairman of the Committee will be appointed by the Council.

**9.2** Membership of the Committee may include the member of the Cabinet who leads on strategic planning but such member would not normally be the Chairman of the Committee.

**9.3** Every member who serves on the Planning and Regulatory Committee will undertake to abide by the Planning Code of Conduct. No member may serve on the Planning and Regulatory Committee unless and until they have undertaken training considered suitable by the Head of Legal and Democratic Services.

**9.4** The Council will establish the Audit and Governance Committee which will carry out the functions set out in the Scheme of Assignment of Responsibility for Functions (Appendix 1). The Chairman and Vice-Chairman will be appointed by the Council.

**9.5** The Council will establish an Appellate Panel from which the Head of Legal and Democratic Services will select a small number of members to form individual ad hoc panels which will carry out the functions set out in the Scheme of Assignment of Responsibility for Functions (Appendix 1).

**9.6** Each individual panel will include independent persons where so required.

**9.7** No member will serve on an individual panel who has had any prior involvement in the particular matter or decision being appealed. Whilst members of the Cabinet are not precluded from serving on individual panels, they will not serve on any panel involving an appeal against a decision of the Cabinet.

**9.8** The Council will establish an Appointments etc Panel, to which the Head of Legal and Democratic Services will appoint individual members to ad hoc panels in line with political balance and the wishes of the relevant Group Leaders, which will carry out the functions set out in the Scheme of Assignment of Responsibility for Functions (Appendix 1).

**9.9** The Council will establish a Waste Credit Governance Committee which will carry out the functions set out in the Scheme of Assignment of Responsibility for Functions (Appendix 1). The Chairman and Vice-Chairman of the Committee will be appointed by the Council.

**9.10** The Council will establish a Pensions Committee which will carry out the functions set out in the Scheme of Assignment of Responsibility for Functions (Appendix 1). The Chairman and Vice-Chairman of the Committee will be appointed by the Council.

**9.11** The Council will establish a Health and Well-Being Board as a statutory committee and a Police and Crime Panel as a statutory joint committee which will carry out the

functions set out in the Scheme of Assignment of Responsibility for Functions (Appendix 1).

## **ARTICLE 10 – THE STANDARDS AND ETHICS COMMITTEE**

### **10.1 Composition**

- (a) The Council will establish a Standards and Ethics Committee with responsibility for promoting a high standard of conduct by members;
- (b) A maximum of one member of the Cabinet (who shall not be the Leader of the Council) may be a member of the Standards and Ethics Committee and that member may not be the Chairman of the Committee;
- (c) The Committee will comprise 9 elected County Councillors appointed in accordance with the rules of political balance plus three independent non-voting co-optees (who are neither officers nor members of the Council, and who are ineligible to be the Chairman or Vice-Chairman of the Committee);
- (d) The Committee may establish ad hoc sub-committees as appropriate to deal with particular cases.

### **10.2 Role and Function**

The Standards and Ethics Committee and its sub-committees will carry out the roles and functions set out in the Scheme of Assignment of Responsibility for Functions (Appendix 1).

## **ARTICLE 11 – JOINT ARRANGEMENTS**

### **11.1 Arrangements to promote well-being or statutory functions**

The Council (in respect of matters which are not Executive functions), or the Leader or the Cabinet (in respect of matters which are Executive functions or otherwise the responsibility of the Executive), in order to promote the economic, social or environmental well-being of its area or in pursuance of any statutory functions, 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.

### **11.2 Joint arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities to exercise functions which are not executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of joint committees with those other local authorities;
- (b) The Leader or Cabinet may establish joint arrangements with one or more local authorities or their executives to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with those other local authorities or their executives;
- (c) Subject to (d), the Leader or Cabinet may only appoint Cabinet members to such a joint committee referred to in (b) and those members need not reflect the political composition of the Council as a whole;
- (d) The Leader or Cabinet may appoint members from outside the Cabinet to a joint committee 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 Leader or Cabinet may appoint to the joint committee any Councillor who is a member for an electoral division which is wholly or partly contained within the area;
  - the joint committee is between a County Council and a single District Council and relates to functions of the executive of the County Council. In such cases, the Leader or Cabinet of the County Council may appoint to the joint committee any Councillor who is a member for an electoral division which is wholly or partly contained within the area;

- In both cases the political balance requirements do not apply to such appointments;
- (e) Details of any joint arrangements including any delegation to Joint Committees are set out in the scheme of Assignment of Responsibility for Functions (Appendix 1).

### **11.3 Access to Information**

The Access to Information Rules in Appendix 5 of this Constitution apply as follows:

- (a) 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 Cabinet by legislation (set out in Appendix 5) unless specific alternative provision is made compliant with legislation.
- (b) 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 unless specific alternative provision is made compliant with legislation.

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

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Executive of another local authority, or receive such delegations;
- (b) The Leader or Cabinet may delegate Executive functions to another local authority or the executive of another local authority in certain circumstances, or receive such delegations.

### **11.5 Contracting Out**

The Council (in respect of functions which are not Executive functions) and the Leader or Cabinet (in respect of Executive functions) may contract out to another body or organisation such functions as are legally permitted through legislation including 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 statutory discretionary decision-making.

## **ARTICLE 12 - AREA ARRANGEMENTS**

**12.1** The County Council is committed to developing 'Act Local in Worcestershire' which incorporates aspects of the Localism Act 2011. Full support is to be given to Members to carry out their community leadership role across the County, making connections in the community, supporting various community projects and informing the work of any District Local Strategic Partnerships (LSP).

**12.2** The Council believes that given the diverse nature of the county area, it is not appropriate to apply the same prescriptive arrangements to each part of its area. Instead flexible arrangements are more appropriate based on or within the District Council boundaries involving, as appropriate, Parish and District Councils, the public and partners/stakeholders according to local circumstances. The presumption is that any such arrangements are purely consultative with no decision-making powers.

### **12.3 District Local Strategic Partnerships**

Where District LSPs exist, the County Council will be represented on a non-political basis by a County Councillor from an electoral division within the area. Protocols for representation on any District LSPs are contained in Appendix 12 of the Constitution.

## **ARTICLE 13 - OFFICERS**

### **13.1 Management structure**

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

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

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

The County Council may engage a Chief Executive and such Directors with corporate or service responsibilities as it considers necessary (collectively known as Chief Officers).

Note: The Council has agreed that the following officers be the Chief Officers of the County Council:

- Chief Executive
- Strategic Director for People
- Director of Children, Families and Communities
- Strategic Director for Commercial and Change
- Strategic Director for Economy and Infrastructure
- Director for Public Health

#### **(c) Head of Paid Service, Monitoring Officer, Chief Financial Officer and Scrutiny Officer**

The Council must appoint to these positions and designates the following posts as shown:

- Chief Executive - Head of Paid Service
- Head of Legal and Democratic Services - Monitoring Officer
- Chief Financial Officer - Chief Financial Officer (Section 151 Officer)
- Democratic Governance and Scrutiny Manager - Scrutiny Officer

Such posts will have the functions described in Article 13.2 – 13.5 below.

#### **(d) Structure**

The Head of Paid Service will determine and publicise a description of the overall organisational structure of the Council showing the management structure. This is set out in Appendix 14 of this Constitution.

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

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

The Head of Paid Service where he/she considers it appropriate to do so will report to full Council on the manner in which the discharge of the County Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation and proper management of officers.

### **(b) Restrictions on designation**

The Head of Paid Service may not be the Monitoring Officer.

## **13.3 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 inspection by members, staff and the public.

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

After consulting the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the full Council (or to the Leader or Cabinet in relation to an executive function) if he/she considers that any proposal, decision or omission has given rise to or is likely to or would give rise to unlawfulness, or maladministration (if investigated by the Ombudsman). Such report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

### **(c) Supporting the Standards and Ethics Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards and Ethics Committee and its sub-committees.

#### **(d) Receiving reports**

The Monitoring Officer will receive and act on reports and decisions of the Standards and Ethics Committee or its sub-committees.

#### **(e) Conducting investigations**

The Monitoring Officer will conduct or arrange investigations into matters referred for investigation and make reports or recommendations in respect of such investigations to the Standards and Ethics Committee or its sub-committees as appropriate.

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

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

#### **(g) Advising whether Cabinet decisions are within the budget and policy framework**

The Monitoring Officer in consultation, as necessary, with the Chief Financial Officer will advise whether decisions of the Leader or Cabinet are in accordance with the budget and policy framework.

#### **(h) Providing advice**

The Monitoring Officer will in consultation, as necessary, with the Chief Financial Officer provide advice on the scope of powers and authority to take decisions, and concerning maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors in their respective roles.

#### **(i) Restrictions on designation**

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

## **Functions of the Chief Financial Officer**

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

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

### **(b) Administration of financial affairs**

The Chief Financial Officer will have responsibility for:-

- i. the proper administration of the financial affairs of the Council, under Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988; and
- ii. ensuring a continuous internal audit of the financial affairs of the Council as required by the Accounts and Audit (England) Regulations 2015 as amended or updated; for maintaining an adequate and effective system of internal audit as required by those Regulations; and for reporting to the Audit and Governance Committee on matters within its remit.

### **(c) Contributing to corporate management**

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

### **(d) Providing advice**

The Chief Financial Officer will in consultation, as necessary, with the Monitoring Officer provide advice in relation to financial matters on the scope of powers and authority to take decisions and concerning maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.

### **(e) Giving financial information**

The Chief Financial Officer will provide financial information relating to the Council to the media, the public and the community.

## **13.4 Functions of the Scrutiny Officer**

- i. to promote the role of the Council's Overview and Scrutiny committees;
- ii. to provide support to those committees and members of them;
- iii. to provide support and guidance to all members and officers of the Council in relation to the functions of those committees.

## **Restrictions on Designation**

The Scrutiny Officer cannot be the Head of Paid Service, Monitoring Officer or Chief Financial Officer.

## **13.6 Duty to provide sufficient resources to the Head of Paid Service, Monitoring Officer, Chief Financial Officer and Scrutiny Officer**

The County Council will provide the Head of Paid Service, Monitoring Officer, Chief Financial Officer, and Scrutiny Officer with such officers, accommodation and other resources as are in the opinion of those officers sufficient to allow their duties to be performed.

## **13.7 Conduct**

Officers of the Council will comply with the Officers' Code of Conduct and any Protocol on Officer/Member Relations from time to time (set out in Appendices 11 and 12 of this Constitution).

## **13.8 Employment**

The recruitment, selection and dismissal of officers and the taking of any other personnel decisions will comply with the Officer Employment Procedure Rules set out in Appendix 9 of this Constitution and the officer delegation Scheme in Appendix 1.

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

### **14.1 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Appendix 7 of this Constitution.

### **14.2 Contracts**

Every contract made by the Council will comply with the approved Contract Standing Orders set out in Appendix 8 of this Constitution, together with the approved Corporate Procurement Strategy and Code applicable from time to time.

### **14.3 Legal proceedings**

A Chief Officer is authorised to institute, defend, appeal, make any application or representation within or withdraw from any criminal or civil legal proceedings before any court, tribunal or inquiry, provided that the Head of Legal and Democratic Services or other officer authorised by him agrees that it is appropriate and in the Council's interests to take such action. The Head of Legal and Democratic Services may, in any case, take or authorise others to take such action on his/her own authority.

### **14.4 Authentication of documents**

Where any document is a necessary step in any legal procedure or proceedings on behalf of the County Council, it will be signed by the Head of Legal and Democratic Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given the necessary authority to some other person for the purposes of such proceedings

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

- (a) The Common Seal of the Council shall be kept in a safe place in the custody of the Head of Legal and Democratic Services;
- (b) In any case where it is necessary that the Common Seal of the Council should be affixed to any document to give effect to a resolution of the Council (or any decision of the Cabinet, a Committee or other member body or of an officer of the Council where the Cabinet, Committee or other member body or officer has the power), that resolution (or decision) shall be of a sufficient authority for sealing that document;
- (c) The affixing of the seal shall be attested either by the Head of Legal and Democratic Services or any person authorised by him/her present at the sealing, and an entry of every sealing of a document shall be made in a book kept for the purpose and shall be initialled by the person who has attested the affixing of the seal.

## **ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION**

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

- (a) The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect and may make recommendations for ways in which it can be changed.
- (b) In undertaking this task the Monitoring Officer may:
  - i. observe meetings of different parts of the member and officer structure;
  - ii. undertake an audit trail of a sample of decisions;
  - iii. (record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
  - iv. compare practices in the County Council with those in other comparable authorities, or national examples of best practice.

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

#### **(a) Articles**

Changes to the Articles of the Constitution will only be approved or authorised by the full Council after consideration of a report and recommendations by the Monitoring Officer. Council may authorise the Monitoring Officer to make changes to the Articles.

#### **(b) Change from a Leader and Cabinet form of Executive to another form of Executive or vice versa**

The Council will take reasonable steps to consult local electors and other interested persons in the area when drawing up such governance proposals in accordance with statutory provisions.

The Monitoring Officer is authorised at any time to make any variations to the constitution (other than the Articles unless authorised to do so by Council) to give effect to any changes in the Articles or the law or where, in his/her opinion, needs and circumstances require it. The Monitoring Officer will make any necessary changes to the Articles of the Constitution to give effect to decisions of the Council.

# **ARTICLE 16 – INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

## **16.1 Suspension of the Constitution**

### **Limit to suspension**

- (a) The Articles of this Constitution may not be suspended. Any provision of those parts of the Constitution other than the Articles may be suspended to the extent and in the manner permitted therein and by the law.
- (b) The extent and duration of any suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

## **16.2 Interpretation**

- (a) Notes in italics contained within the Articles are for information and do not form part of the Articles.
- (b) The Monitoring Officer shall, except to the extent otherwise provided for in the Constitution, be the final arbiter in relation to the interpretation and application of the Constitution and its provisions.

## **16.3 Publication**

- (a) The Monitoring Officer will ensure that a copy of the Constitution is accessible on the Council's website and may give a printed copy of it on request to any member of the authority.
- (b) The Monitoring Officer will ensure that such a copy is available for inspection at County Hall and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Monitoring Officer will ensure that a summary of the Constitution is made available on the website and County Hall and is updated as necessary.

# **SCHEME OF ASSIGNMENT OF RESPONSIBILITY FOR FUNCTIONS August 2019**

## APPENDIX 1 – SCHEME OF ASSIGNMENT OF RESPONSIBILITY FOR FUNCTIONS

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## **APPENDIX 1 - SCHEME OF ASSIGNMENT OF RESPONSIBILITY FOR FUNCTIONS**

### **A. INTRODUCTION**

1. The Council has adopted the 'new-style' Leader and Cabinet executive (England) governance model. The 'executive' consists of the Leader of the Council (who is appointed by full Council and may be removed by it) and 2 or more councillors appointed to the Cabinet from time to time by that Leader. The executive of Worcestershire County Council is described as 'the Cabinet'.
2. In accordance with the law, any function of the Council which is not otherwise specified in legislation is an 'executive function' and is the responsibility of the Leader and Cabinet. The Leader and Cabinet are responsible for all of the County Council's functions (including Local Choice functions) except those which are required by the law or this Council's Constitution to be the responsibility of the Council itself or any other non-executive part of the Council. Executive functions are regarded as exercisable by the Cabinet (or officers or individual Cabinet Members) on behalf of the Council and may not be exercised by the Council.
3. Such executive functions may be discharged in accordance with provisions made by or under this Constitution or the law, in particular the Local Government Act 2000, Public Involvement in Health Act 2007, Localism Act 2011 and associated Regulations.
4. Legislation specifies particular non-executive functions which cannot be the responsibility of the Cabinet, and also Local Choice functions which may be allocated to be the responsibility of the Cabinet but do not need to be. All local choice functions which are not otherwise allocated under this Constitution are the responsibility of the Leader and Cabinet.
5. The Leader may personally discharge functions which are the responsibility of the executive or arrange for their discharge by the Cabinet, another member of the Cabinet, a committee of the Cabinet, a joint committee or by an officer. The Leader may change these arrangements from time to time. Unless the Leader otherwise directs, the Cabinet itself may also arrange for the discharge of any of its functions by a committee of itself, a joint committee, individual Cabinet Member or by an officer.
6. This scheme reflects the assignment of functions by either the Council (in respect of matters which are not executive functions) or by the Leader of the Council or Cabinet (in respect of matters which are the responsibility of the executive) as appropriate to the particular function. In relation to delegation to officers the scheme does not distinguish between the 2 sources of delegation.
7. Responsibility for the functions of the Council and Cabinet is delegated or assigned as set out in the following provisions of this scheme as updated from time to time, and such delegation/assignment includes the power to do anything which is calculated to facilitate or is conducive to the discharge of those functions.

8. The provisions of this scheme take account of the requirements of the Local Government Act 2000, the Local Government and Public Involvement in Health Act 2007, Localism Act 2011 and relevant legislation including Regulations in the assignment of functions to the Council itself, to the Leader/Cabinet, to other Committees or Panels. They take account of any prohibitions, restrictions or local choice in the assignment of these functions.
9. The Council, the Leader, Cabinet, individual Members, Committees or Panels to which functions are assigned shall act in accordance with the law and the provisions of the Council's Constitution including any Standing Orders, Procedure Rules, Financial Regulations and protocols approved from time to time (except those joint committees or any other member bodies regulated by separate constitutions).
10. Those functions reserved to the full Council itself are not to be delegated or assigned except as permitted under the law or this Constitution.
11. Each body or person having decision-making powers (a 'Delegate') shall implement and act within the policies of the Council, having regard to the advice of The Assistant Director for Legal and Governance as necessary.
12. Each Delegate shall have the power to delegate further to an officer all or any of the functions delegated to it.
13. Each Delegate shall have the power to institute or defend or authorise appearance in legal proceedings within the scope of their delegation, having regard to the advice of and with the consent of The Assistant Director for Legal and Governance.
14. A Delegate may decide not to exercise any function in relation to a particular matter and invite the Council, Leader or Cabinet (depending upon whether the function is the responsibility of the executive) or any other appropriate body as the case may be to do so instead.
15. The functions, powers and duties are delegated to officers in accordance with the scheme of delegation to officers.

**16. Meanings**

- (a) 'Executive functions' shall mean those functions that by law must be the responsibility of the Executive.
- (b) 'Non-executive functions' shall mean those functions that by law must not be the responsibility of the Executive.
- (c) 'Local choice functions' shall mean those functions that the Council may decide to exercise itself or delegate to any part of the Council including the Executive.

- (d) Responsibility of the Executive shall include those matters which are executive functions, or local choice functions which have been delegated to the Executive.

## **B. MEMBER BODIES - COUNCIL**

1. Only the Council has responsibility for and will exercise the following functions:
  - (a) adopting and changing the Articles of the Constitution or authorising such;
  - (b) approving or adopting the Policy Framework and the Budget (both as defined below);
  - (c) approving or adopting the Members' Code of Conduct;
  - (d) subject to the urgency procedure contained in the Budget Policy Framework Rules in Appendix 6 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;
  - (e) appointing and removing the Leader of the Council;
  - (f) establishing, agreeing and/or amending (or making arrangements for agreeing and/or amending) the terms of reference for Committees, Joint Committees, or Panels which the Council may establish as part of its Constitution and which are not the responsibility of the executive, deciding on their composition and making arrangements for appointments to them;
  - (g) appointing or removing the Chairman and Vice-Chairman of the Council, and the Chairman and Vice-Chairman of Committees established as part of the constitution of the Council and which are not the responsibility of the executive, and appointing or removing Lead Scrutiny members of the Overview and Scrutiny Performance Board;
  - (h) adopting or amending a members' allowances scheme and any other allowances or expenses payable to members or office holders;
  - (i) changing the name of the county;
  - (j) conferring the title of honorary Alderman or Freeman;
  - (k) confirming the appointment and dismissal of the Head of Paid Service; and confirming the dismissal of the Chief Financial Officer and the Monitoring Officer in accordance with the Officer Employment Rules;
  - (l) making, amending, revoking, re-enacting or adopting byelaws;
  - (m) promoting or opposing the making of local or personal Bills in Parliament;

- (n) receiving and enabling answers to questions on reports from the Hereford and Worcester Fire and Rescue Authority;
  - (o) appointing the members of the Independent Remuneration Panel;
  - (p) changing governance arrangements under Sections 9B-9C, 9K-9KC and Part 1A of the Local Government Act 2000 as amended (executive or other arrangements);
  - (q) changing the name of any of the Council's electoral Divisions in conjunction with the Local Government Boundary Commission for England as necessary;
  - (r) the appointment of 'Independent Persons' for the purposes of the ethical framework under the Localism Act 2011;
  - (s) all other matters which, by law, must be reserved to the Council or which may be so reserved and the Council chooses to reserve to itself.
2. The Council has responsibility for and may delegate the exercise of the following functions except to the Executive:
- (a) functions in relation to elections and boundaries;
  - (b) functions in relation to local government pensions etc;
  - (c) employment of staff, and identification of designated, statutory and proper officers;
  - (d) making arrangements for the appointment of representatives to outside bodies unless the appointment is the responsibility of the executive;
  - (e) adopting or varying the Constitution including the making or variation of procedural standing orders and rules and standing orders in relation to contracts;
  - (f) making arrangements for the proper administration of the Council's financial affairs, including approving the Council's statement of accounts;
  - (g) payments or benefits in cases of maladministration;
  - (h) any functions under local legislation which may not be the responsibility of the executive;
  - (i) all other non-executive functions which are not the responsibility of the executive;
  - (j) all other functions which the Council is permitted to delegate by law or this Constitution.

## **Policy Framework**

3. The Policy Framework means the following plans and strategies or successors from time to time:-

- Sustainable Community Strategy (if any)
- Corporate Plan
- Children and Young People's Plan
- Local Transport Plan
- The approval, for the purpose of its submission to the Secretary of State for independent examination under section 20 (independent examination) of the Planning and Compulsory Purchase Act 2004, of a development plan document
- Youth Justice Plan
- 'Act Local in Worcestershire' framework
- Such other plans and strategies as required by law to form part of the Policy Framework or which may be and have been adopted to be part of that Framework.

## **Budget**

4. The budget includes the budget policy and medium term financial plan, the allocation of financial resources to different services, proposed contingency funds, setting the precept and decisions relating to compliance with prudential guidelines, the control of its capital and revenue expenditure and the setting of virement limits in relation to the following financial year. For the avoidance of doubt, this includes the approval of the treasury management and investment strategies.

## **C. MEMBER BODIES - CABINET**

1. Cabinet will:

- (a) carry out all of the County Council's functions, including Local Choice functions, except those which are required by the law or this Council's Constitution to be the responsibility of the Council itself or any other non-executive part of the Council. It will therefore have responsibility for all executive functions and functions which are responsibility of the executive;
- (b) consider and recommend for approval by the Council the current budget containing the deployment of revenue and capital resources including the issue of the precept, the statement of prudential indicators in relation to the borrowing of money;
- (c) consider and recommend for approval by the Council any plan and strategy forming part of the Policy Framework of the Council;
- (d) consider and recommend for approval by the Council any plan or strategy which the Council has chosen to reserve itself;

- (e) subject to the urgency provisions in the Budget and Policy Framework Rules (Appendix 6), consider and recommend to Council the determination of any matter relating to the Council's budget or approved policy framework, if it is minded to determine the matter in a manner contrary to or not wholly in accordance with the budget, policy framework as the case may be or if it is not authorised by the Council's constitutional arrangements, standing orders, financial regulations, procedure rules or protocols;
- (f) consider and respond to overview and scrutiny reports and recommendations;
- (g) have responsibility for any best value review programme and for the approval of completed best value reviews;
- (h) carry out such other functions as are set out in the Council's Constitution or allocated to it by the Leader, Council or legislation from time to time.

## **CABINET MEMBERS' AREAS OF RESPONSIBILITY**

2. The Leader of the Council has responsibility for appointing Cabinet Members with Responsibility and assigning their respective political responsibilities for matters which are the responsibility of the Executive.

3. The Leader (or Cabinet) may authorise individual members of the Cabinet to take decisions relating to executive functions either generally or in respect of particular decisions, including any of the Cabinet functions set out in paragraph 1 above. Delegations to officers in relation to executive functions continue as set out in the scheme of Assignment of Responsibility for Functions as updated from time to time, and specific delegations to officers may be made by the Leader or Cabinet (or a Cabinet member in respect of decision-making delegated to him or her).

4. Individual Cabinet members will continue to hold responsibility for political leadership in their assigned areas insofar as they are the responsibility of the Executive.

5. The Leader of the Council has established the following areas of political responsibility to be held by Cabinet members:

### **LEADER OF THE COUNCIL – SIMON GERAGHTY**

Overall responsibility for executive functions and political leadership.  
Holds specific political responsibility for:

- **CORPORATE PLAN / FUTURE FIT / STRATEGIC PARTNERSHIPS (including Local Enterprise Partnership)**

- **FINANCE**

1. Financial practice and standards
2. Financial management

3. Financial appraisal
4. Service business support
5. Medium Term Financial Plan.

*[Note for the avoidance of doubt these functions and responsibilities exclude any functions allocated to the Audit and Governance Committee or Pensions Committee]*

*[The Leader will be supported by the Chief Executive and all Directors as appropriate and by the Chief Financial Officer with respect to Finance]*

#### **DEPUTY LEADER OF THE COUNCIL – ADRIAN HARDMAN**

To deputise for the Leader of the Council as needed.  
Holds specific Cabinet Member responsibility for:

##### **• ADULT SOCIAL CARE**

1. Adult Social Care (and Lead Member for Adult Services)
2. Joint Commissioning with Health.

*[The Cabinet Member will be supported by The Strategic Director for People]*

#### **CABINET MEMBERS WITH RESPONSIBILITY FOR:**

##### **• CHILDREN AND FAMILIES (LEAD MEMBER FOR CHILDREN'S SERVICES) – ANDY ROBERTS**

1. Children's Social Care and Corporate Parenting
2. Joint Commissioning for Children's Services
3. Youth Offending Service (through a shared service)
4. Positive Activities for Young Persons.

*[The Cabinet Member will be supported by the Director of Children, Families and Communities]*

##### **• ECONOMY AND INFRASTRUCTURE – KEN POLLOCK**

1. Strategic planning – community and spatial
2. Economic development and regeneration
3. Business Partnerships
4. Strategic Transportation (including Local Transport Plan)
5. Broadband

*[Note for the avoidance of doubt these responsibilities exclude any functions allocated to the Planning and Regulatory Committee]*

*[The Cabinet Member will be supported by The Strategic Director for Economy and Infrastructure]*

##### **• EDUCATION AND SKILLS – MARCUS HART**

1. Education

2. Skills Policy and Development, including training, apprenticeships, business engagement, and employment skills

*[The Cabinet Member will be supported by the Director of Children, Families and Communities]*

**• ENVIRONMENT – TONY MILLER**

1. Waste management
2. Environmental Protection and Conservation
3. Environmental Sustainability
4. Strategic Flooding issues and Flood Mitigation

*[The Cabinet Member will be supported by The Strategic Director for Economy and Infrastructure]*

**• HEALTH AND WELL-BEING - JOHN SMITH**

1. Health Improvement Strategy
2. Public Health
3. NHS Partnerships
4. Health Service Strategy (including Health and Well-being Board (HWB) and ensuring joint HWB links to adult and children's social care)
5. Community Safety including Substance Misuse
6. Health and Emergency Planning (including Public Protection)

*[The Cabinet Member will be supported by The Director for Public Health]*

**• HIGHWAYS – ALAN AMOS**

1. Highways
2. Road Safety
3. Street Works
4. Sustainable Transport
5. Passenger Transport
6. Countryside Access (executive functions for public rights of way)

*[The Cabinet Member will be supported by The Strategic Director for Economy and Infrastructure and Director of Children, Families and Communities]*

**• COMMUNITIES – LUCY HODGSON**

1. 'Act Local' Strategy development and implementation
2. Community leadership and engagement
3. Voluntary and Community sector
4. Cultural services including:
  - a. Libraries and Adult Learning
  - b. Arts
  - c. Museums and Archives
  - d. Archaeology
  - e. Information management and Record Office
5. Registration of Births, Deaths and Marriages

6. Coroner's Service
7. Countryside Greenspace Services (amenities – including management of Open Spaces and Gypsy/Traveller Service) and School Crossing Patrols
8. Trading Standards/Animal Welfare
9. Scientific Services

*[The Cabinet Member will be supported by The Strategic Director for Economy and Infrastructure, the Director of Children, Families and Communities and The Strategic Director for Commercial and Change]*

**• TRANSFORMATION AND COMMISSIONING – KAREN MAY**

1. Future Fit Programme and Projects
2. Human Resources and Organisational Development
3. Land and property
4. ICT
5. Legal and Democratic Services
6. Procurement
7. Research and Marketing
8. Equalities
9. Corporate Risk Management
10. Customer Services and Access (including Hub and Consumer Relations)
11. Shared Services
12. Performance Management and Improvement

*[The Cabinet Member will be supported by The Strategic Director for Commercial and Change]*

**COMMITTEES OF THE COUNCIL**

**D. OVERVIEW AND SCRUTINY**

Overview and Scrutiny Performance Board

The role of the Overview and Scrutiny Performance Board (OSPB) will be to:

- (a) plan and co-ordinate the work of Overview and Scrutiny, to agree areas for scrutiny (including the development of an outline work programme for approval by the County Council) and terms of reference for each in-depth scrutiny review;
- (b) commission overview and scrutiny work through Overview and Scrutiny Panels, scrutiny task groups, joint working with district councils, or itself;
- (c) agree Overview and Scrutiny reports prepared by Overview and Scrutiny Panels, scrutiny task groups or joint working arrangements with district councils;
- (d) act as an interface with the Cabinet;

- (e) receive, comment and advise on the Council's policy framework and on other major policy issues (with Overview and Scrutiny Panels or scrutiny task groups being commissioned to undertake any detailed work during the year);
- (f) have overall responsibility for budget scrutiny and performance monitoring issues, with Overview and Scrutiny Panels undertaking the detailed work in respect of their respective areas of involvement;
- (g) review and/or scrutinise (or to commission a review and/or scrutiny of) decisions made or actions taken in connection with the discharge of any of the Council's functions whether or not the responsibility of the Cabinet;
- (h) contribute to the policy development of the Council by undertaking (or commissioning) the consideration of issues prior to their consideration by the Cabinet;
- (i) exercise the right to call-in, for re-consideration of decisions made but not yet implemented by the Cabinet;
- (j) decide whether and how to deal with call-ins, commissioning Overview and Scrutiny Panels or establishing scrutiny task groups to undertake any detailed work under terms of reference agreed by the Board;
- (k) decide whether and how to deal with Councillor Call for Action requests (including those requests which relate to Crime and Disorder matters); and commission Overview and Scrutiny Panels or establish scrutiny task groups to undertake any detailed work under Terms of Reference agreed by the Board;
- (l) agree arrangements for any review of the performance of relevant external organisations which impact on the Council's functions and services and submit reports after comment, as appropriate, by the Cabinet and external organisations, to the Council;
- (m) act as the relevant 'Crime and Disorder' Scrutiny Committee undertaking those responsibilities conferred by the Crime and Disorder Act, or commission specific work to be undertaken by a specific Overview and Scrutiny Panel or establish a scrutiny task group to do so;
- (n) monitor the quality of scrutinies;
- (o) monitor (or commission the monitoring of) the implementation of any scrutiny recommendations accepted by the Cabinet;
- (p) oversee the development of member skills and competencies in scrutiny;
- (q) carry out such Overview and Scrutiny functions as may be allocated from time to time by legislation or this Constitution.

## Health Overview and Scrutiny Committee

The role of the Health Overview and Scrutiny Committee (HOSC) will be to:

- (a) review and scrutinise any matter relating to the planning, provision and operation of health services in the area of the County;
- (b) review and scrutinise the impact of the Council's services and of key partnerships on the health of residents in the County;
- (c) respond to consultations from the National Health Service or by the local authority as commissioner and provider of health services on any proposal for a substantial development of health services in the area, or for a substantial variation in the provision of such a service;
- (d) establish (or agree to participate in) joint Health Overview and Scrutiny committees where a local NHS body is undertaking statutory consultation with different authorities on a proposal for substantial variations or developments to NHS services where people from more than one local authority area might be affected, or as appropriate to deal with particular issues;

*[Note - The Assistant Director for Legal and Governance is also authorised to determine the terms of reference and details of any such ad hoc joint committee, in consultation with the Chairman of HOSC and Group Leaders]*

- (e) determine whether to delegate responsibility for certain focussed scrutiny exercises to District Councils subject to the County Council's strategic policies and budget provisions being adhered to.

## Overview and Scrutiny Panels

The remits of the scrutiny bodies are summarised in the table below. OSPB may resolve any ambiguities between remits.

Panel	Business Area
OSPB	<ul style="list-style-type: none"> <li>• Scrutiny performance</li> <li>• Coordinate and agree the scrutiny work programme for endorsement by Council</li> <li>• Co-ordinate workload</li> <li>• Call-ins</li> <li>• Allocate Council-wide issues not otherwise falling within the remit of a particular Panel to one of the Panels</li> <li>• Consider reports and recommendations from Panels or Task Groups</li> <li>• Monitor the quality of scrutiny</li> </ul>
Adult Care and Well-Being	<ul style="list-style-type: none"> <li>• Health and Well-being</li> <li>• Adult Social Care</li> </ul>
Children and	<ul style="list-style-type: none"> <li>• Children's Social Care and Families</li> </ul>

Families	<ul style="list-style-type: none"> <li>• Public Health relating to Families</li> <li>• Education and Skills</li> </ul>
Economy and Environment	<ul style="list-style-type: none"> <li>• Economy</li> <li>• Environment</li> <li>• Highways</li> <li>• Infrastructure</li> </ul>
Corporate and Communities	<ul style="list-style-type: none"> <li>• Commissioning, contracts and commerce and ensuring the corporate commissioning cycle works well</li> <li>• Transformation</li> <li>• Finance</li> <li>• Localism and Communities</li> <li>• Organisation and employees</li> </ul>
Health O&S Committee	<ul style="list-style-type: none"> <li>• Local NHS bodies and health services</li> </ul>

Each Overview and Scrutiny Panel will cover the remits of the Cabinet Members with Responsibilities as follows:

<b>Overview and Scrutiny Panel</b>	<b>Cabinet Member with Responsibility</b>
Adult Care and Well-Being	Health and Well-Being* <sup>1</sup> Adult Social Care
Children and Families	Children and Families Education and Skills
Economy and Environment* <sup>2</sup>	Environment Highways Economy and Infrastructure
Corporate and Communities	Transformation and Commissioning Finance Communities

\*1 This area is also covered by the Health Overview and Scrutiny Committee.

\*2 The Economy and Environment Overview and Scrutiny Panel will review and scrutinise the Council's flood risk management functions which may affect the local authority's area, as set out in the Flood and Water Management Act 2010.

The role of the Overview and Scrutiny Panels will be to:-

- (a) be responsible for regular performance monitoring of directorate performance and quality assurance relevant to their theme/s;
- (b) be responsible for routine budget monitoring of those services and functions within their area of scrutiny responsibility;
- (c) contribute to the policy development of the Council by undertaking the consideration of issues on the terms commissioned by the OSPB and prior to consideration by Cabinet;
- (d) carry out in-depth scrutinies on the basis of and in accordance with the terms of reference agreed by the OSPB;

- (e) carry out any other tasks (including the consideration of Call-ins and Councillor Calls for Action) commissioned by the OSPB in pursuance of its functions.

### **Scrutiny Task Groups**

The role of the Scrutiny Task Groups will be to:

- (a) carry out in-depth scrutinies on the basis of and in accordance with the terms of reference agreed by the OSPB;
- (b) carry out any other tasks (including the consideration of call-ins and Councillor Calls for Action) commissioned by the OSPB in pursuance of its functions.

*[NB Scrutiny Task Groups are not Committees of the Council but informal ad hoc working groups]*

### **E. PLANNING AND REGULATORY COMMITTEE**

- (a) To determine planning applications which are the responsibility of the Council;
- (b) To determine applications for the Council's own development;
- (c) To carry out all other non-executive functions relating to town and country planning and development control as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended (the Functions Regulations);
- (d) To exercise the Council's non-executive functions relating to public rights of way as set out in Schedule 1 to the Functions Regulations (as amended);
- (e) To carry out any other licensing and registration or regulatory functions not assigned to any other body, including any which are not to be executive functions as defined in the Local Government Act 2000, Local Government and Public Involvement in Health Act 2007 and associated Regulations or other relevant legislation.

### **F. STANDARDS AND ETHICS COMMITTEE**

The Standards and Ethics Committee will comprise elected County Councillors appointed in accordance with the rules of political balance plus three independent non-voting co-optees (who are neither officers nor Members of the Council, and who are ineligible to be Chairman or Vice-Chairman of the Committee).

The role of the Standards and Ethics Committee will be to:

- (a) promote and maintain high standards of conduct by County Councillors, co-opted members, church and parent governor representatives, independent lay co-opted members of the West Mercia Police and Crime Panel and members of the Health and Well-being Board ('Members');
- (b) assist Members to observe the Members' Code of Conduct and relevant Protocols in place from time to time;
- (c) oversee the Registers of Members' Interests and oversee the effectiveness of the Council's procedures for investigating and responding to complaints about Members;
- (d) monitor the operation of any Members' Codes of Conduct and Protocols of the County Council and to advise the County Council on the adoption or revision of such Codes and Protocols;
- (e) advise, train, or arrange to train Members on matters relating to any Members' Codes of Conduct and Protocols;
- (f) agree, keep under review and revise the procedures from time to time for dealing with complaints against Members;
- (g) appoint independent co-optees onto the Committee or sub-committee from time to time;
- (h) advise Council on the appointment of 'Independent Persons' for the purposes of the ethical framework under the Localism Act 2011;
- (i) grant dispensations to Members from requirements relating to interests as set out in the Members' Code of Conduct;
- (j) consider such allegations of failure to comply with the Members' Code of Conduct or Member/Officer Relations Protocol or other member conduct complaints as are referred to it; to consider reports or recommendations from the Monitoring Officer and to conduct hearings into and determine such allegations and take such action and impose such sanctions on behalf of the Council as are required, permitted or appropriate;
- (k) approve the reason for one or more County Councillors failing to attend meetings pursuant to Section 85 of the Local Government Act 1972 or succeeding or other provisions to similar effect;
- (l) carry out any other functions allocated to it including considering appeals from members who have been refused Disclosure and Barring Service clearance by The Assistant Director for Legal and Governance to carry out their functions with regard to children and vulnerable adults.

## **STANDARD AND ETHICS ASSESSMENT AND REVIEW SUB COMMITTEES**

*[Appointed ad hoc – to consist of 3 elected Members and 1 independent co-optee]*

To carry out the function of the Committee in relation to hearings within (i) to (l) above, or as allocated in the relevant procedures from time to time , or such functions as are allocated to it on behalf of Standards and Ethics Committee.

## **STANDARDS AND ETHICS APPEALS SUB-COMMITTEE**

*[Appointed ad hoc – to consist of 3 elected Members and 1 independent co-optee, none of whom sat on the original hearing sub-committee]*

To hear by review any appeals brought by Members found to be in breach by a hearing sub-committee under (j) above.

## **G. AUDIT AND GOVERNANCE COMMITTEE**

The role of the Audit and Governance Committee will be to:

- (a) review the annual audit plans of both the internal and external auditors;
- (b) receive and comment upon the external and internal auditors' reports;
- (c) monitor the adequacy and effectiveness of the Council's system of internal control;
- (d) consider and approve the annual statements of accounts;
- (e) be satisfied as to the Council's overall corporate governance arrangements;
- (f) ensure that a corporate risk management strategy is drawn up, and to consider, monitor and review the effectiveness of the Council's risk management arrangements;
- (g) consider monitor and review the Council's arrangements for the prevention and detection of fraud and corruption;
- (h) consider any report from Internal Audit in pursuance of Financial Regulations.

## **H. APPELLATE PANEL**

- (a) Individual appeal panels are selected ad hoc by The Assistant Director for Legal and Governance from the wider group of members constituting the Appellate Panel to hear and determine appellate and representations functions which by virtue of statutory provision or of any procedure agreed by the Council require member determination;

- (b) Members from the Appellate Panel will also be selected to serve on any Review Panel required as part of the corporate representations procedure.

## **I APPOINTMENTS ETC. PANEL**

The role of the Appointment etc Panel will be to:

- (a) act in relation to the appointment, terms and conditions, discipline, capability, suspension or dismissal of the Chief Executive (Head of Paid Service), Directors and Heads of Service (collectively Chief Officer-related posts) in accordance with the provisions of the Officer Employment Rules (Appendix 9 to the Constitution);
- (b) take any decisions on non-executive functions relating to staffing and personnel matters which are not, in pursuance of any policies practices or procedures, delegated to officers, including the determination of any cases of early termination of employment or redundancy involving the award of added years.

## **J. WASTE CREDIT GOVERNANCE COMMITTEE**

The role of the Committee will be to have oversight of the actions of the Council acting as lender to the waste project and its waste contractor Mercia Waste Management Ltd (Mercia) and:

- (a) to review, in conjunction with external advisers advising the Council as lender, the risks being borne as a result of the funding provided by the Council to Mercia and consider whether the risks being borne by the Council, as lender, are reasonable and appropriate having regard to the risks typically assumed by long term senior funders to waste projects in the United Kingdom and best banking practice;
- (b) to monitor the administration of the loan to the waste project in line with best banking practice having regard to any such external advice, including the terms of any waivers or amendments which may be required or are desirable;
- (c) to consider what steps should be taken to protect the interests of the Council as lender in the event of a default or breach of covenant by Mercia, and make recommendations as appropriate to Full Council, the Council's statutory officers or Cabinet as appropriate to ensure the appropriate enforcement of security and litigation in relation to the loan to Mercia;
- (d) to consider and recommend appropriate courses of action to protect the position of the Council as lender to the waste project;
- (e) to make recommendations as appropriate to Council with regard to its Budget and Policy Framework and the loan to the waste project;
- (f) generally to take such other steps in relation to the loan within the scope of these Terms of Reference as the Committee considers to be appropriate.

## Notes

- *The Committee will be cross-party with Members established in accordance with the legal requirements of political balance*
- *The Committee will not contain any current Members from time to time of the Cabinet*
- *The Committee will be chaired by a Councillor appointed by full Council. The Vice-Chairman will be from a Group other than that forming the present administration*
- *The Committee will be advised by external financial and legal advisers on behalf of the Council's s151 officer and will also seek advice as appropriate from the Council's statutory officers including the Council's Monitoring Officer and Section 151 officer*
- *The Committee will meet in public (unless the grounds for exemption are met under the Access to Information legislation) and upon at least 5 working days' notice (unless called sooner as a matter of urgency) in accordance with that legislation*
- *The Committee will not be responsible for decisions in respect of the operation of the waste contract or any waste disposal authority executive functions*
- *The Committee will not be accountable to the Cabinet*
- *The Committee may decide matters within its terms of reference or refer them to full Council, statutory officers or Cabinet for determination*
- *As the Committee regulates or controls the finance of the Council (in relation to the funding provided to Mercia) the law does not permit co-optees to sit as members of the committee by virtue of s102(3) LGA 1972.*

*However, in order to benefit from a clearer separation of roles, the Committee may be advised by an external financial expert who will report to the Committee, attend its meetings and provide expert advice to it. As necessary, the Committee may also receive legal advice from an external firm of solicitors with expertise in banking law. The Council's s151 officer and Monitoring Officer will retain their overarching statutory roles in respect of the Committee.*

*The Cabinet, not the Committee, will continue to be responsible for exercising the role of the Council's executive, acting as a waste disposal authority within the overall Budget and Policy framework set by the Council. The Cabinet will have no supervisory or other responsibility for the Committee.*

## **K. PENSIONS COMMITTEE**

To take decisions in regard to the Administering Authority's responsibility for the management of the Worcestershire County Council Pension Fund, including the management of the administration of the benefits and strategic management of Fund assets, specifically:

- changes to the Statement of Investment Principles, including the strategic benchmark for asset allocation, Investment Manager benchmarks and Investment Manager targets.
- the termination and appointment of Investment Managers and associated professional service providers.
- the termination and appointment of the Fund's Independent Financial Adviser, Performance Measurement Consultant, Global Custodian and Actuary.

- the Pensions Administration Strategy Statement, Policy Statement on Communication Strategy, Policy Statement on Governance Strategy, Funding Strategy Statement and Governance Compliance Statement.
- the Triennial and Interim Actuarial Valuations.
- the approval of the Pension Fund Annual Report and Accounts.
- the approval of the Pension Fund annual and triennial budgets.
- key outstanding risks as identified in the Pension Fund Risk Register.
- the Pension Administration Advisory Forum arrangement and regular Forum reports, which consider and address outstanding member and employer issues and concerns.
- the Pension Investment Advisory Panel arrangement and regular Advisory Panel reports, which monitor performance of the Fund's assets.
- requests for admission of qualifying Community and Transferee Bodies wishing to join the Fund.
- key pension policy discretions that are the responsibility of the Administering Authority.

#### *Notes*

*The Pensions Committee is a formal committee of the Council and comprises a total of 8 voting Members:*

- *5 Worcestershire County Councillors*
- *1 co-opted Councillor as nominated by Herefordshire Council (being the second largest employer in the Fund)*
- *1 co-opted voting employer representative and*
- *1 co-opted voting employee representative from a relevant Union.*

*The 5 County Councillor Members are formally appointed by The Assistant Director for Legal and Governance in accordance with political balance requirements from time to time and the nominations of the relevant Group Leaders, and the 3 co-optees are co-opted by the Chairman of the Committee.*

*[Further detail is set out in the Pension Fund Governance Policy Statement adopted by Council 12 February 2015]*

## **L. JOINT COMMITTEES OF THE EXECUTIVE**

West Mercia Energy Joint Committee (regulated by formal agreement and administered by Shropshire Council)

A Joint Committee has been established between the executives of Worcestershire County Council and Shropshire Council, Telford and Wrekin Council and Herefordshire Council in relation to the running of West Mercia Energy.

The objectives of the Joint Committee shall be to maintain effective, efficient and economic arrangements for the purchase and supply of energy at the request of and to the satisfaction of the Member Authorities and to other public bodies where it is permitted by law and is to the benefit of Member Authorities to do so.

Joint Museums Committee (regulated by formal agreement)

A Joint Committee has been established with Worcester City Council for the provision of a Joint Museum Service from 1 April 2010. The Joint Committee exercises the Council's statutory functions under Section 12 of the Public Libraries and Museum Act 1964 in relation to the joint service.

The role of the Joint Museums Committee will be to:

- (a) carry out functions under sections 12-20 of the Public Libraries and Museums Act 1964, section 111 of the Local Government Act 1972 and related well-being powers;
- (b) manage and monitor the operation of an effective museum service for Worcester City Council and Worcestershire County Council in accordance with the current service level agreement
- (c) agree business and development plans for the joint service
- (d) approve all new, or revised, policies for museum operations
- (e) agree levels of service provision as set out through the annual budget setting process and the Service Level Agreement
- (f) agree temporary alterations to the level of fees and charges pertaining to the Joint Museums Service
- (g) agree the annual budget proposal to be submitted to the Member Authorities for final approval
- (h) make budget decisions related to the use of/funding of end of year surplus or deficit
- (i) approve the museums' annual report and recommend to Member Authorities
- (j) acquire objects for the collections of Member Authorities
- (k) agree temporary alterations to the level of and negotiate contracts administering fees, charges and licences pertaining to the joint museum service
- (l) advise participating authorities on the strategic framework for museums.

#### **M. JOINT CONSULTATIVE/NEGOTIATION COMMITTEES (REGULATED BY FORMAL CONSTITUTIONS)**

Joint Committee for Chief Officers

Provision for consultation, sharing of information or negotiation on any employee relations matter affecting officers of the council whose terms and conditions of employment fall within the scope of the Joint Negotiating Committee for Chief Officers.

## Joint Employees Committee

Provision for consultation, sharing of information or negotiation on any employee relations matter affecting employees of the council whose terms and conditions of employment fall within the National Joint Council for Local Government Service.

## Joint Teaching Staff Committee

Provision for consultation, sharing of information or negotiation on any employee relations matter affecting teachers.

## **N. OTHER BODIES**

### Pension Board

The Board is not a committee of the Council but is established in accordance with Section 5 of the Public Service Pensions Act 2013 and under Regulation 106 of the Local Government Pension Scheme Regulations 2013 (as amended).

The purpose of the Board is to assist the Administering Authority in its role as a scheme manager of the Pension Scheme to:

- (a) secure compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme; and
- (b) to ensure the effective and efficient governance and administration of the Scheme.

1. *No officer or elected member of the Administering Authority who is responsible for the discharge of any function of the Administering Authority under the Regulations may serve as a member of the Board.*
2. *The Board shall consist of four voting members appointed by the Chief Financial Officer, as follows:*
  - Two Member Representatives; and*
  - Two Employer Representatives.*
3. *There shall be an equal number of Member and Employer Representatives appointed to the Board.*
4. *There shall also be one other Board member to act as its independent chair (as proposed by the Chief Financial Officer and agreed by a majority of the Board) who is not entitled to vote.*

*[Further detail is set out in the pension Fund Governance Policy Statement adopted by Council 12 February 2015]*

## Standing Advisory Council on Religious Education (SACRE)

SACRE is a statutory body established to advise the County Council on matters relating to collective worship and religious education and performs its functions in accordance with statutory requirements.

### **O. WEST MERCIA POLICE AND CRIME PANEL**

The role of the West Mercia Police and Crime Panel, acting as a statutory joint committee of all the principal authorities in the West Mercia area, is to:

- (a) support the effective exercise of the functions of the Police and Crime Commissioner (PCC) and exercise its functions with a view to such support
- (b) review and make a report or recommendations to the PCC on the draft police and crime plan, or draft variation, given to the Panel by the PCC
- (c) review and make a report or recommendation to the PCC on the annual report
- (d) review and hold a public confirmation hearing in respect of, a 'proposed senior appointment' as defined in the Police Reform and Social Responsibility Act 2011 and report to the PCC with a recommendation as to whether or not the candidate should be appointed
- (e) review and hold a public confirmation hearing in respect of, the proposed appointment of the Chief Constable and report to the PCC with a recommendation as to whether or not the candidate should be appointed or exercise the Panel's right to veto the appointment
- (f) hold a scrutiny meeting in private in respect of a proposal by the PCC to call upon the Chief Constable to retire or resign and make a recommendation to the PCC in respect of the proposal
- (g) review and make a report (which may include recommendations) on the PCC's proposed precept or exercise the Panel's right to veto the proposed precept
- (h) review or scrutinise decisions made, or other action taken, by the PCC in connection with the discharge of the PCC's functions
- (i) make reports or recommendations to the PCC with respect to the discharge of the PCC's functions
- (j) fulfil any further function in relation to complaints about conduct matters, in accordance with any responsibilities accorded to the Panel by or under the Police Reform and Social Responsibility Act 2011
- (k) appoint an Acting PCC if necessary
- (l) consider suspending the PCC if it appears to the Panel that the PCC has been charged in the United Kingdom, Channel Islands or Isle of Man with an offence which carries a maximum term of imprisonment exceeding two years

- (m) fulfil any other function of the Police and Crime Panel as provided by the Police Reform and Social Responsibility Act 2011 or associated primary or secondary legislation.

## **P. HEALTH AND WELL-BEING BOARD**

The role of the Health and Well-being Board, acting as a statutory committee, is to:

- (a) lead and build partnerships for health and well-being
- (b) establish a shared understanding of health and well-being in Worcestershire and the County's health and social care needs
- (c) ensure continuous improvement in health and well-being outcomes and the quality and value for money of health, social care and related children's services
- (d) lead strategic planning and drive commissioning of NHS, public health, social care and related children's services
- (e) influence how the County Council and the local NHS use their resources to organise and provide services
- (f) encourage persons who arrange and provide health, social care and related services to work in an integrated manner
- (g) ensure that there is long-term action across a range of partners to influence the determinants of health and well-being
- (h) ensure that effective arrangements are in place to protect the public against infectious diseases and other threats to health through preventative efforts and robust planning and an effective response to outbreaks and incidents
- (i) ensure that effective arrangements are in place for safeguarding at-risk adults and children
- (j) become a forum for public discussion and accountability of strategies, policies, services and activities that influence health and well-being and health and social care services
- (k) develop a consensus around major service change.

To do this the Board will:

- (a) prepare and produce a Joint Strategic Needs Assessment (JSNA) to provide a clear statement of health and well-being in Worcestershire and the County's health and social care needs
- (b) develop a Joint Health and Well-being Strategy; based on this assessment, to provide a framework for how these needs are to be addressed

- (c) develop a clear understanding of current and future funding, activity and expenditure across health and social care, and opportunities for service change
- (d) determine whether health and social care commissioning plans are consistent with the JHWS, endorse these where appropriate or advise on what additions or changes are expected
- (e) oversee Joint Commissioning between the County Council and the Clinical Commissioning Groups
- (f) encourage and oversee the progressive integration of budgets across health and social care and related services
- (g) consider and approve the use of the Better Care Fund (previously named the Integration Transformation Fund).

## **Q. EXERCISE OF FUNCTIONS BY LOCAL COUNTY COUNCILLORS**

Each County Councillor had been authorised in accordance with Section 236 of the Local Government and Public Involvement in Health Act 2007 to exercise the Council's functions to promote the economic, social or environmental well-being in relation to their electoral Division in accordance with the Worcestershire Councillor Divisional Fund Scheme (WCDF). Those well-being functions are now encompassed within Section 1 of the Localism Act 2011.

## **OFFICERS' SCHEME OF DELEGATION**

1. The functions, powers and duties in this scheme are delegated to officers as shown in the attached schedule by the Council, Leader or Cabinet. These include the power to do anything which is calculated to facilitate, or is conducive to, the discharge of these functions. This Scheme sets out the standing delegations to officers and associated restrictions. For the avoidance of doubt, in addition there may be specific ad hoc delegations to officers from the relevant decision-maker.
2. When functions are delegated to an officer, the Leader or Cabinet (in relation to a function which is the responsibility of the executive) or (in relation to non-executive functions) the Council, relevant Committee, or other member body with decision-making powers may specify that a particular decision shall not be exercised by an officer but be reserved or referred to the Council, Cabinet or Committee or other member body as the case may be.
3. The Chief Executive and Directors, acting as the Strategic Leadership Team (SLT), shall have the responsibility to ensure that the Council's policies, practices and procedures are carried out in a corporate, consistent and co-ordinated manner and may take collective decisions.
4. Subject to Paragraph 5, the Chief Executive and each Director shall have the following general responsibilities, powers and duties:

- (a) to implement and act within the approved policy framework and budget and any other approved policies, plans, practices and procedures of the Council;
- (b) to delegate further, in writing, all or any of their delegated functions to other officers to exercise in their own name;
- (c) in exercising delegated powers, to consult with such other officers as appropriate and to have regard to any advice given and in particular to seek appropriate advice in relation to a professional judgement required in any area in which he/she is not professionally qualified;
- (d) to advise on policy development and formulation;
- (e) to act in accordance with the Council's Constitution, Standing Orders, Financial Regulations, Procedure Rules and any protocols or other arrangements approved in pursuance of them;
- (f) to carry out all employment functions and to deal with any staffing establishment issue in relation to staff employed in the delivery of services for which he/she is responsible;
- (g) to be responsible for the performance of those employees carrying out the functions for which he/she is responsible;
- (h) to institute, defend, appeal, make any application or representation within, any criminal or civil legal proceedings before any court, tribunal or inquiry, provided that The Assistant Director for Legal and Governance agrees that it is appropriate to take such action;
- (i) to manage any physical assets, including land and buildings (except for the acquisition, appropriation or disposal of land and buildings), information technology, vehicles and equipment generally, allocated to the service for which he/she is responsible;
- (j) to enter into any arrangements, contractual, partnership, or otherwise with any other body for the carrying out of the functions of either body;
- (k) to make payments or provide other benefits in cases of maladministration,
- (l) where the Chief Executive is unable to act or is absent, any function or powers delegated to him/her may be exercised by any other member of Strategic Leadership Team;
- (m) when any Director is unable to act or is absent, any functions or powers delegated to him/her may be exercised by any other officer nominated by him/her or by the Chief Executive;
- (n) to maintain close liaison with appropriate Councillors on any sensitive or contentious issues;
- (o) to keep relevant Councillors informed as appropriate including on matters affecting their electoral division;

- (p) to be the lead officer on major corporate issues, as designated in each case by SLT or the Chief Executive;
  - (q) to act as proper officer where so designated by the Chief Executive from time to time; and
  - (r) to exercise the Council's powers of general competence under the Localism Act 2011 in relation to matters falling within the ambit of their Directorate or delegated powers.
5. The following functions are not delegated to any officer:
- (a) any matters reserved to full Council, the Cabinet or any other Committee or a member body having decision-making powers, or any matter constituting a key decision;
  - (b) any function which by law may not be delegated to an officer;
  - (c) the adoption of significant new policy or significant variations to existing policies and any matter which is contrary to the policy framework and budget of the Council (subject to any exception in the Budget and Policy Framework Rules); and
  - (d) the appointment, terms and conditions, or dismissal of the Chief Executive, Directors and Heads of Service (Chief Officer- related posts) other than the appointment of an Acting Head of Service for up to 4 months or payment of an honorarium or ex gratia payment for up to 12 months (see the Officer Employment Rules).
6. (a) an officer may decide not to exercise any function in relation to a particular matter and to invite the Council, the Cabinet, or other Committee or relevant member body having decision-making powers, as appropriate, to do so instead. It is open to an officer to consult with appropriate Councillors (such as the Leader of the Council, Group Leaders, Cabinet Members with Responsibility, Chairman of any other relevant Committee or Panel, as the case may be) on the exercise of delegated powers or in deciding whether or not to exercise such powers. An officer will normally consider very carefully whether to exercise any delegated powers where a matter is likely to be controversial or contentious.
- (b) the extent to which officers carry out such consultations is ultimately a matter for them but in exercising this judgement they should have regard to the following general principles:
- i. day to day decisions on technical, professional or routine issues would normally be taken without consultation with councillors;
  - ii. the need to consult with a Cabinet Member with Responsibility when an issue arises when there is some uncertainty in the application of existing policy;

- iii. if a decision is required in relation to a matter which has a clear impact on or significantly affects a particular electoral division(s) an officer would be expected to consult with the relevant local member(s);
- iv. if a decision is likely to generate high profile publicity or have a significant impact on the Council's relationship with external bodies and partners an officer would be expected to consult with the relevant Cabinet Member with Responsibility;
- v. the need or desirability to consult with representatives of the group(s) not forming part of the administration; and
- vi. an officer may find it desirable to consult with a member or
- vii. group of members who have been identified as possessing expertise in relation to a specific matter.

(c) an officer will be expected to comply with any protocols agreed from time to time in relation to the exercise of specific functions.

## SCHEDULE TO SCHEME OF DELEGATION TO OFFICERS

### THE CHIEF EXECUTIVE

1. To be Head of the Paid Service.
2. To be County Controller for Civil Defence.
3. To oversee policy development and planning (including corporate policy development).
4. To be responsible for advising on the appropriate level of resources for services.
5. To oversee corporate performance monitoring of the Council.
6. To oversee community consultation, engagement, and leadership.
7. To oversee corporate communications.
8. To be responsible for strategies for change whether from within the authority or externally influenced.
9. To make arrangements for dealing with any matter raised by the Government or Local Authority Association calling for a view or decision by the Council.
10. To have oversight of the corporate representations procedure and any other council complaints processes, including matters of maladministration.

11. To carry out any functions assigned in pursuance of the Council's constitution, standing orders, financial regulations, Procedure Rules, protocols and any approved policies, plans, codes, practices and procedures of the Council.
12. To be responsible for the overall organisational structure and management of the Council.
13. To be responsible for the effective leadership, management and performance of the Strategic Leadership Team.
14. To grant exemptions to political restrictions for officers in accordance with Section 3A of the Local Government and Housing Act 1989.
15. To have overall responsibility for the 'Future Fit' transformation and reform agenda.

#### THE STRATEGIC DIRECTOR FOR PEOPLE

1. To be the Director of Adult Social Services and carry out the functions of the Council in relation to Adult Social Services and Social Care including all social services functions under the Local Authority Social Services Act 1970 (as amended from time to time) as far as they relate to adults.
2. To carry out the functions of the Council regarding the statutory scheme for disabled persons' vehicle badges.
3. To carry out the functions of the Council under the NHS Act 2006 and any other health legislation (as amended from time to time and other than any functions of The Director for Public Health) to enter arrangements with NHS or other bodies for the exercise of NHS or health functions or health-related Council functions relating to adults.
4. To support the Health and Well-being Board and the Joint Health and Well-being Strategy in partnership with the NHS, Voluntary and Community Sector and other agencies, and in partnership with The Director for Public Health and Director of Children, Families and Communities.
5. To carry out the functions of the Council in relation to Joint Commissioning of NHS, social care, and related services.
6. To ensure the sustainability of the adult social care systems through appropriate preventive programmes.
7. To carry out any functions assigned in pursuance of the Council's constitution, standing orders, financial regulations, Procedure Rules, protocols and any approved policies, plans, codes, practices and procedures of the Council.

## THE DIRECTOR FOR PUBLIC HEALTH

1. To be The Director for Public Health and carry out the functions of that statutory post and the Council in respect of public health under the Health and Social Care Act 2012 and any other health legislation (as amended from time to time) including:

The Council's duties to take steps to improve the health of the people in its area;

- any of the Secretary of State's public health protection or health improvement functions delegated to the Council
  - the Council's functions in planning for, and responding to, emergencies that present a risk to the public's health;
  - the Council's role in co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders; and
  - such other public health functions as the Secretary of State specifies in Regulations
  - the Council's public health response as a responsible authority under the Licensing Act 2003,
  - To ensure the sustainability of the public health systems through appropriate preventive programmes.
2. To be the Chief Adviser to the Council on all issues related to health and well-being and to support the Health and Well-being Board and the Joint Health and Well-being Strategy in partnership with the NHS, Voluntary and Community Sector and other agencies.
  3. To be responsible for the commissioning of Healthwatch.
  4. To carry out the functions of the Council in relation to the commissioning and joint commissioning of public health services
  5. To carry out the functions of the Council in relation to Community Safety including under Section 17 of the Crime and Disorder Act 1998 (as amended) and in relation to the prevention of crime and disorder, abuse of drugs, alcohol and other substances, and the reduction of re-offending and anti-social behaviour.
  6. To carry out the functions of the Council in relation to Emergency Preparedness, Resilience and Response including the Civil Contingencies Act 2004, Safety of Sports Grounds, Control of Major Accident Hazards, Pipelines Safety, Health and Social Care Act 2012 all as updated or amended, and other Public Protection matters including reservoirs, and other relevant licensing matters.

## THE STRATEGIC DIRECTOR FOR ECONOMY AND INFRASTRUCTURE

1. To carry out the functions of the Council as Highway Authority (including footpaths, bridleways and cycleways) and to be Proper Officer under the Highways Act 1980.
2. To be the County Surveyor and carry out the functions of the Council as a surveying authority in respect of public rights of way and other relevant licensing matters.
3. To carry out the functions of the Council as Traffic Authority, and also functions relating to on- and off-street parking.
4. To carry out the functions of the Council as a street or streetworks authority.
5. To carry out the Council's network management functions under the Traffic Management Act 2004.
6. To oversee and co-ordinate public/integrated transport issues as they affect the County and carry out the Council's functions in respect of public passenger transport services.
7. To carry out the functions of the Council in respect of waste disposal and waste management.
8. To carry out the functions of the Council in respect of rights of way and countryside access.
9. To carry out the functions of the Council as County Planning Authority, including Development Control and the preparation, review and monitoring of and consultation on Local Development Schemes and Development Plan Documents.
10. To consider and determine county matter applications and applications for the carrying out of the Council's own development, in accordance with any protocols agreed from time to time by the Council or Planning and Regulatory Committee.
11. To carry out the functions of the Council in relation to economic development and regeneration including Tourism.
12. To carry out the functions of the Council concerning Regional, European and International issues and relationships.
13. To carry out the functions of the Council with regard to environmental policy issues, conservation and enhancement.
14. To manage 'Agenda 21' sustainability and environmental energy issues.
15. To manage the Council's Archive and Archaeology Service.
16. To carry out the functions of the Council as a Lead Local Flood Authority.

17. To carry out the functions of the Council as weights and measures authority and food authority and all regulatory and licensing functions in relation to trading standards, consumer protection, animal health, sales to minors, explosives, petroleum and poison.
18. To perform and manage the Council's Scientific Services and Public Analyst service.
19. To manage County Enterprises.
20. To act as Data Protection Officer and Senior Information Risk Owner (SIRO).
21. To carry out any functions assigned in pursuance of the Council's constitution, standing orders, financial regulations, Procedure Rules, protocols and any approved policies, plans, codes, practices and procedures of the Council.

#### THE DIRECTOR OF CHILDREN, FAMILIES AND COMMUNITIES

1. To carry out the functions of the Council as a Children's Services Authority (or Local Authority in the context of children's social care matters) including those functions referred to in Section 18(1) of the Children Act 2004 (as amended from time to time).
2. To carry out the functions of the Council as Local Education Authority (or Local Authority in the context of educational matters) including the functions of the Council relating to education, child employment and the youth service but excluding functions relating to adult learning and further and higher education set out in Section 18(3) of the Children Act 2004 (as amended from time to time).
3. To be responsible for the administration and planning of the review of organisation of schools within the County.
4. To carry out the functions of the Council which are social services functions under the Local Authority Social Services Act 1970 (as amended from time to time) so far as they relate to children.
5. To carry out the functions of the Council as an Adoption Agency.
6. To carry out the functions of the Council under the NHS Act 2006 and any other health legislation (as amended or replaced from time to time) to enter arrangements with NHS or other bodies for the exercise of NHS or health functions or health-related Council functions so far as those functions relate to children.
7. To carry out the functions of the Council under sections 23C to 24D of the Children Act 1989 (as amended from time to time) in relation to after care arrangements etc.
8. To carry out the functions of the Council under sections 10 to 13 and 17A of the Children Act 2004 (as amended from time to time) in relation to arrangements to

safeguard and promote the welfare of children and Children and Young Persons' Plans.

9. To carry out the functions of the Council in relation to early years/Sure Start and the Childcare Act 2006.
10. To carry out the functions of the Council in relation to Youth Offending Services (commissioned through a joint service hosted by the West Mercia Police and Crime Commissioner).
11. To be responsible for the development of Corporate Parenting.
12. To carry out the functions of the Council as Library and Museum authority, and generally act in relation to Libraries, Arts, Museums, Archaeology and associated cultural services, including Youth Music, and have overall responsibility for The Hive.
13. To carry out the functions of the Council as local education authority in relation to adult/family learning and further and higher education including the functions set out in section 18(3) of the Children Act 2004 (as amended from time to time).
14. To manage and carry out the functions of the Council in relation to the Countryside Greenspace service, including the management of open spaces, Commons and Village Greens, and the Gypsy Service, road safety and school crossing patrols.
15. To carry out any functions assigned in pursuance of the Council's constitution, standing orders, financial regulations, Procedure Rules, protocols and any approved policies, plans, codes, practices and procedures of the Council.

#### THE STRATEGIC DIRECTOR FOR COMMERCIAL AND CHANGE

1. To lead and drive organisational change and commissioning support within the Council. Driving through cultural change and on a peer to peer basis enabling, supporting and challenging strategic commissioners to deliver better outcomes within financial constraints.
2. To develop, shape and implement the role of commissioning support and delivery models across the Council's Services. Driving the delivery of commercial skills and acumen in the organisation ensuring robust market engagement, contract management and quality assurance of services in support of the strategic commissioning Directorates.
3. To lead the service transformation element of Open for Business, understand how commissioning decisions impact the Worcestershire economy and improving economic outcomes (e.g. growth, jobs, social value) either through spend or behaviours.
4. To play an active role in building the reputation of Worcestershire, across the region and on a national basis within local government sector and beyond.

5. To carry out any functions assigned in pursuance of the Council's constitution, standing orders, financial regulations, Procedure Rules, protocols and any approved policies, plans, codes, practices and procedures of the Council.
6. To be responsible for the development, implementation and review of the County Council's management development strategy and corporate training programme.
7. To be responsible for the development, implementation and training on Health and Safety issues and Employee welfare.
8. To determine and issue general guidelines to officers for the management of human resources, including recruitment, training, conditions of service, staff development/appraisal, disciplinary matters and any other matter concerning staff.
9. To be responsible for employee relations.
10. To determine ICT and Customer Access Strategy, direction, issues and work plan
11. To be responsible for the Council's corporate procurement function, including the Corporate Procurement Strategy, the Procurement Code and the Council's relationship with West Mercia Energy.
12. To manage the administration of the Council's Consumer Relations Service, including corporate representations procedure and issues of maladministration.
13. To be responsible for administrative buildings and facilities management.
14. To authorise acquisition ( whether by agreement or compulsory), re-use, appropriation and disposal of interests and estates in land, property and buildings, together with the granting, or taking assignment or surrender of leases, tenancies, licences, easements, wayleaves and variations of rent.
15. To have overall responsibility for the management and maintenance of any land or buildings, including agricultural landholdings, held for County Council purposes having regard to service objectives and in the interests of the Council as a whole.
16. To take such actions as are considered appropriate in relation to advance payments, blight notices, home loss payments under the Land Compensation Act 1973, notices to quit, purchase notices and other notices.
17. To oversee and make arrangements for the selection of tenants for the County Farms Estate.
18. To determine and issue general guidelines to officers for the management of land and building resources.
19. To manage the functions of the Council in relation to the development of Customer Services with public sector parties (eg the Worcestershire Hub) and one stop shops.
20. To develop shared services with public sector parties.

21. To be responsible for Corporate Performance Management and Improvement.
22. To be responsible for Corporate Risk.
23. To be responsible for the Council's Research and Marketing service (including corporate communications, media and public relations).
24. To take responsibility for Corporate Project Management.
25. To be responsible for the Worcestershire Partnership.
26. To be responsible for overseeing the Council's approach to equality and diversity.
27. To be responsible for the 'Future Fit' transformation and reform agenda.
28. To carry out the functions of the Council in managing relations with the Voluntary and Community sector.
29. To carry out the functions of the Council in relation to the Registration of Births, Deaths and Marriages.
30. To carry out the functions of the Council in relation to the Coroner's Service.
31. To have overall responsibility for the Council's information management systems, including any functions under Freedom of Information Act, Data Protection Act and other Regulations.
32. To manage the Council's functions in relation to the corporate information management unit.

#### THE ASSISTANT DIRECTOR FOR LEGAL AND GOVERNANCE

1. To be the Monitoring Officer, and oversee the ethical conduct of the Council and the production of associated codes, conventions and protocols.
2. To be County Solicitor and act as Solicitor to the Council.
3. To settle on appropriate terms any litigation or claim taken by or against the Council.
4. To authorise the institution, defence, withdrawal, compromise or any other action relating to claims or legal proceedings, civil or criminal.
5. To authorise officers of the Council to appear before Magistrates' Courts or County Court.
6. To issue or serve statutory or legal notices on behalf of the Council for any of its functions.
7. To attest the affixing of the Council's seal.

8. To draw up, monitor and review the Council's constitution and its components and make any changes or additions to them to give effect to any decisions of the Council or changes in the law or where, in his/her opinion, needs and circumstances require it.
9. To delegate further all or any of the delegated functions from paragraph 3 onwards to other officers to exercise in their own name.
10. To be the County Returning Officer.
11. To be Proper Officer of the Council, except where legislation or arrangements specify another officer.
12. To determine, advise or issue general guidance to officers and Members of the Council in relation to propriety, constitutional, electoral and legislative matters.
13. To carry out any functions in connection with the production of the scheme for Members' Allowances, the review and operation of the scheme and any other payable allowances.
14. To be responsible for the provision of services to Members of the Council.
15. After consultation with appropriate Members of the Council (particularly relevant Group Leaders), and where required in accordance with their wishes to make appointments, removals or replacements to any Member body in the Council's constitution and to outside bodies; and to fill casual vacancies on any such bodies in accordance where required with Sections 15 – 17 of the Local Government and Housing Act 1989.
16. To carry out and manage the functions of the Council in relation to electoral and boundary issues.
17. To be responsible for the exercise of the Council's functions through the constitutional and political structures, decision-making and delegatory processes, including necessary administrative arrangements, and to advise upon and oversee public access to the democratic processes in line with legal provision and Council policy.
18. To determine registration matters relating to Commons and Village Greens.
19. To approve the use of the Council's coat of arms.
20. To certify or make arrangements for the certification of authorisation and identity cards and passes for officers and members.
21. To determine the terms of reference and details of any joint Health Overview and Scrutiny Committee in consultation with the Chairman of HOSC and Group Leaders.

## THE DEMOCRATIC GOVERNANCE AND SCRUTINY MANAGER

1. To be the Council's designated Scrutiny Officer.

## THE CHIEF FINANCIAL OFFICER

1. To be the Chief Financial Officer for the Council.
2. To lead the promotion and delivery by the whole County Council of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively.
3. To exercise a professional responsibility to intervene in spending plans in order to maintain the balance of resources so that the County Council remains in sound financial health.
4. Determine a scheme of delegation and reserve powers, including a formal schedule of those matters specifically reserved for collective decisions by the Pensions Committee etc, and ensure that it is monitored and updated.
5. To exercise the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, and Regulation 6 of the Accounts and Audit Regulations 2003, including making and issuing financial regulations.
6. To operate the Local Government Pension Scheme Regulations 1997, and any subsequent amending regulations, including the exercise of discretions and to make arrangements for the management of the Pension Fund Investments, subject to the functions of the Pensions Committee.
7. To implement national and local pay awards and increase payments under the Pension Increase Acts.
8. To make finance and operating leasing arrangements.
9. To manage the deployment of the Council's revenue and capital resources including any resources allocated for joint working.
10. To advise on Public Private Partnerships and Private Finance Initiative schemes as they affect the financial position of the Council.
11. To determine and implement arrangements for Treasury Management in accordance with the Chartered Institute of Public Finance and Accountancy's (CIPFA) Treasury Management in the Public Services Code of Practice and any other arrangements approved by the Council.

August 2019

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# PROCEDURAL STANDING ORDERS

## APPENDIX 2 - PROCEDURAL STANDING ORDERS

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## 1. INTRODUCTION

- 1.1 These Procedural Standing Orders (PSO) regulate the business and conduct of meetings of the Council, and (subject to 1.2) so far as is indicated expressly, implicitly or in accordance with PSO 30, its Committees or Panels and any other decision-making member body established as set out in the Scheme of Assignment of Responsibility for Functions (Appendix 1 to this Constitution).
- 1.2 These Procedural Standing Orders do not automatically apply to meetings of the Cabinet (see Cabinet Procedure Rules) nor to those joint committees or other member bodies regulated by separate constitutions.

## 2. ANNUAL MEETING OF THE COUNCIL

### 2.1 Timing

- 2.1.1 The Council shall hold an 'Annual Meeting' once a year to which all elected members are summoned, and which takes place at County Hall, Worcester at 10:00 am or such other time or place as fixed by the Council, Chairman or the Assistant Director for Legal and Governance. The period within which the Annual Meeting takes place is governed by legal provision. Meetings may be summoned by the circulation of the agenda in paper copy or, if the member so elects, electronically.
- 2.1.2 In a year of ordinary elections of Councillors, the Annual Meeting of the Council shall be held on the first Thursday after the day of retirement of Councillors or on such other day within 21 days immediately following that day of retirement as the Council, Chairman or the Assistant Director for Legal and Governance may fix.
- 2.1.3 In any other year, the Annual Meeting shall be held on the first Thursday in May or such other day in March, April or May (or such other period permitted by legal provision) as the Council, Chairman or the Assistant Director for Legal and Governance may fix.

### 2.2 Business

The Annual Meeting will:

- (a) choose a person to preside if the Chairman and Vice-Chairman are absent;
- (b) elect the Chairman of Council;
- (c) appoint the Vice-Chairman of Council; and
- (d) provide an opportunity for any Councillor present to disclose an interest in a matter on the agenda;
- (e) allow members of the public to participate in the proceedings of Council, or allow Councillors to present a petition, in accordance with PSO 15;

- (f) approve as a correct record and authorise the signing of the minutes of the Council which require signing at the meeting;
- (g) receive any announcements from the Chairman and/or Chief Executive;
- (h) in a year of ordinary elections of Councillors only, or where there is otherwise a vacancy, appoint the Leader of the Council;
- (i) consider any motion on notice to remove the Leader of the Council;
- (j) agree if necessary any changes to the Constitution which the Constitution determines it is for the Council to agree;
- (k) establish (in accordance with PSO 6) Committees, Panels or other Member bodies as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in this Constitution and legislation) and decide upon their composition;
- (l) appoint the Chairmen and Vice-Chairmen of Committees and any other Member bodies in accordance with PSO 7 and appoint other Scrutiny Lead Members on the Overview and Scrutiny Performance Board;
- (m) deal with any business expressly required by statute or the Constitution to be done;
- (n) dispose of any business remaining from the last meeting;
- (o) approve a programme of ordinary meetings of the Council;
- (p) receive any report from the Leader of the Council, Cabinet Members with Responsibility (CMR), Chairman of the Overview and Scrutiny Performance Board and Chief Executive and receive answers to any questions on that report;
- (q) receive answers to any questions asked in accordance with PSO 16.2 (which have not already been answered);
- (r) in accordance with PSO 5.2 receive and consider reports from the Cabinet, and those from other Committees which require a substantive (rather than merely procedural) decision of Council;
- (s) receive the report of the Assistant Director for Legal and Governance as to any Notices of Motion received in accordance with PSO 17;
- (t) in accordance with PSO 5.2 receive and consider reports from the Committees not falling within (r) and at such time receive answers to any question asked in accordance with PSO 16.1;
- (u) consider and debate any major in-depth scrutiny report or other scrutiny issue referred to the Council;
- (v) debate any key issues in accordance with PSO 33;

- (w) Consider any reports submitted by the West Mercia Police and Crime Panel;
- (x) consider any reports submitted by the Hereford and Worcester Fire and Rescue Authority and to receive answers to any questions about the discharge of that Authority's functions in accordance with PSO 16; and
- (y) other business specified in the summons.

### 2.3 **Variation of Order of Business**

Business falling under items (a) to (d) (inclusive) of PSO 2.2 shall not be varied but all other items of business may be varied:

- (a) by the Chairman at his/her discretion; or
- (b) by a resolution passed on a motion (which need not be in writing) duly moved and seconded and put without discussion.

## 3. **ORDINARY MEETINGS OF THE COUNCIL**

- 3.1 Ordinary Meetings of the Council will take place in accordance with a programme decided by Council as may be amended from time to time by the Council. Meetings may be summoned by the circulation of the agenda in paper copy or, if the member so elects, electronically.
- 3.2 Ordinary meetings will carry out the business of the Council as set out in PSO2.2(a), (d), (e), (f), (g), (h) – (l) as necessary, (m),(n), and (p) – (y).
- 3.3 The order of business of Ordinary Meetings of the Council may be varied in accordance with PSO 2.3.

## 4. **EXTRAORDINARY MEETINGS OF THE COUNCIL**

### 4.1. Calling Extraordinary Meetings

- 4.1.1 Those listed below may require the Assistant Director for Legal and Governance to call Council meetings in addition to Ordinary Meetings:

- (a) the Council by resolution;
- (b) the Chairman of the Council;
- (c) the Monitoring Officer;
- (d) any five members of the Council if:
  - i. they have signed a requisition presented to the Chairman of the Council and
  - ii. the Chairman has refused to require the Assistant Director for Legal and Governance to call a meeting or has failed to so require within 7 days of the presentation of the requisition referred to in (i) above.

4.1.2 The particular single item of business for an Extraordinary Meeting must be specified at the time of request or requisition. Meetings may be summoned by the circulation of the agenda in paper copy or, if the member so elects, electronically.

#### 4.2 Order of Business

4.2.1 An Extraordinary Meeting will carry out the business of the Council as set out in PSO 2.2 (a), (d), (e) (in so far as the Chairman has exercised his/her discretion under PSO 15 to allow this), (f) (subject to PSO 4.2.3), (g) and any other business specified in the summons which shall be limited to the business which has occasioned the meeting and any other business which in the opinion of the Assistant Director for Legal and Governance is relevant to it.

4.2.2 The order of business may be varied in accordance with PSO 2.3.

4.2.3 The Assistant Director for Legal and Governance may submit minutes of the last meeting of Council to a following meeting of the Council for approval and signing.

### 5. **MINUTES, REPORTS AND CIRCULATED DOCUMENTS**

#### 5.1 **Form of Agendas, Decisions and Minutes**

The Assistant Director for Legal and Governance shall be responsible for compiling the agendas for, and formal decision notices or minutes of, meetings of the Council, Committees and Panels.

#### 5.2 **Reports of the Cabinet and Committees**

5.2.1 Unless the Council directs or accepts otherwise (or different governing provisions are contained in the Cabinet Procedure Rules or the Overview and Scrutiny Procedure Rules) the Cabinet, Audit and Governance, Planning and Regulatory and Standards and Ethics Committees shall report their proceedings and recommendations, if any, to the next meeting of the Council, provided that if that body meets less than eight clear working days before the next meeting of the Council, the proceedings and recommendations of that body may instead be reported to the next but one meeting of the Council.

5.2.2 The Leader of the Council, Chairman of the Overview and Scrutiny Performance Board and the Chief Executive will submit a report annually to the Council. Cabinet Members with Responsibility will submit a report to Council on a rolling basis.

#### 5.3 **Minutes**

5.3.1 The Chairman will sign the minutes of the proceedings at the next suitable

meeting after putting the question that the minutes of any previous meeting of the Council be approved and signed as a correct record.

- 5.3.2 No discussion shall take place upon the minutes, except upon their accuracy, and any question of their accuracy shall be raised by motion. If no such question is raised, or if it is raised, then as soon as it has been disposed of, the Chairman shall sign the minutes as approved.

#### **5.4 Circulated Documents**

Any document which has been circulated amongst Councillors before or during any meeting at which it is considered shall be taken as read unless the Council otherwise determines.

### **6. APPOINTMENT OF COMMITTEES AND OTHER MEMBER BODIES**

#### **6.1 Appointment**

- 6.1.1 The Council shall, at the Annual Meeting in a year of ordinary elections of Councillors, (subject to any legal requirement) establish such Committees, Panels and other member bodies as is required or it has decided to appoint and determine the number of members (including any co-opted non-councillor members required or permitted by law) there shall be on such Committees, Panels and other member bodies.
- 6.1.2 The Council may subject to any statutory provisions at any time appoint such other Committees, Panels and other member bodies as are considered by the Council necessary to carry out the work of the Council and, may at any time dissolve a Committee, Panels or other member body or alter its membership.
- 6.1.3 The Council may (subject to any legal requirements) make such arrangements as it thinks fit to select Councillors and where appropriate other persons for service on any Committee, Panels or other member body of the Council or on any other body on which the Council is represented, and may authorise a Committee, Panels or other member body or officer to act on behalf of the Council. The Assistant Director for Legal and Governance is authorised to make such appointments, in consultation with the appropriate Group Leader(s) in respect of the appointment of Councillors.

#### **6.2 Substituted Membership of Committees and Other Member Bodies**

- 6.2.1 Except in relation to the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panels and such other member bodies as the Council may from time to time determine or as provided for in any other rules forming part of the Council's Constitution, any member of a Committee, Panel or other member body may, subject to any restrictions, nominate a Councillor who is not a member of that Committee, Panels or other

member body (as the case may be) to attend in his/her place any particular meeting of such Committee, Panels or other member body.

6.2.2 Any such nominated member shall thereupon become a member of such Committee, Panel or other member body in place of the nominating member for the duration of that meeting provided that:-

- (a) the name of the nominating member and the nominated member and
- (b) the meeting to which the nomination relates

are communicated in writing (which may be electronic) to the Assistant Director for Legal and Governance by either the nominating or nominated Member before the commencement of the meeting in question.

### 6.3 **Vacancy in Committee or Other Member Body**

The Assistant Director for Legal and Governance shall report any vacancy occurring in any Committee or other member body to the appropriate political group and, in the event of that vacancy not then having been filled in pursuance of arrangements made by the Council under PSO 6.1.3, shall report the vacancy to the next meeting of the Council.

## 7. **CHAIRMAN AND VICE-CHAIRMAN OF COMMITTEES AND OTHER MEMBER BODIES**

7.1 The Council shall (subject to PSO 7.2) at the Annual Meeting of the Council or, in the event of a vacancy existing or occurring as soon as practicable after the vacancy arises appoint the Chairmen and Vice-Chairmen of Committees and of any other appropriate Member body from among the members of the Committee or other Member body (including, subject to and in pursuance of any legal requirement, any co-opted non-Councillor member), but nothing in the subparagraph shall require the appointment of a Vice-Chairman of any other member body.

7.2 PSO 7.1 shall not apply:

- (a) in any case where separate provision is made as part of any formal constitution regulating any other body governed by that constitution; or
- (b) to individual appellate case panels, Appointments etc Panels, or Standards and Ethics sub-committees in which case each Panel or sub-committee shall before proceeding to any other business, elect a Chairman and may appoint a Vice-Chairman.

7.3 A Chairman or Vice-Chairman of a Committee or other member body elected or appointed in pursuance of this Standing Order may be removed by Council at any time and shall, unless he/she ceases for any reason to be a Councillor or he/she resigns or becomes disqualified or is removed by Council at any time, continue in office until his/her successor becomes entitled to act.

- 7.4 A Chairman or Vice-Chairman of a Committee or other member body who is a non-Councillor co-opted member shall cease to hold office as such if he/she at any time ceases for any reason to be a co-opted member.
- 7.5 If the Chairman is absent from a meeting of the Committee or other member body, the Vice-Chairman shall preside. If both are absent, the members of the Committee or other member body present shall choose one of their number to preside, and the choice shall be conducted by the Strategic Director for Commercial and Change or his/her representative at the meeting.

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

- 8.1 Unless the Council, Chairman or Assistant Director for Legal and Governance otherwise determine in a particular case, every meeting of the Council shall be held at County Hall, Worcester.
- 8.2 All meetings of the Council shall commence at 10.00 am or at such other time as may be fixed by the Council, Chairman or Assistant Director for Legal and Governance.
- 8.3 The Chairman may, within any statutory limitations, vary the day, time or place fixed for any meeting of the Council.

## **9. TIME AND PLACE OF MEETINGS OF COMMITTEES AND OTHER MEMBER BODIES**

- 9.1 The day and time of meeting of each Committee, Panel or other member body shall be such as the Committee, Panel or other member body, its Chairman or Assistant Director for Legal and Governance may from time to time determine.
- 9.2 Such meetings will normally be held at County Hall, Worcester, but may be held at such other place as the Committee, Panel or other member body, its Chairman or Assistant Director for Legal and Governance may from time to time determine.
- 9.3 The Chairman of a Committee, Panel or other member body or Assistant Director for Legal and Governance may, for good reason, vary the day, time or place fixed for any meeting of the Committee, Panel and or other member body provided that any such variation in relation to the day or time may only be made at least fourteen days before the date originally fixed, unless the cause of the variation occurs within that period, in which case as much notice of the change as is practicable must be given.
- 9.4 **Special Meetings of Committees and Other Member Bodies**
- 9.4.1 The Chairman of the Council may at any time call a special meeting of any Committee or other member body.

- 9.4.2 The Chairman of a Committee or other member body may at any time call a special meeting of the Committee or other member body of which he/she is Chairman.
- 9.4.3 A special meeting of a Committee or other member body shall also be called on the requisition of Councillors who are members of and comprise at least one quarter of the number of Councillors who are members of the Committee or other member body, provided the requisition is in writing (see paragraph 34 (d)), is signed by each of the Councillors concerned, identifies the business those Councillors wish to be considered, and is delivered to the Assistant Director for Legal and Governance, but in no case shall less than three Councillors requisition such a special meeting.

## 10. **ADJOURNED MEETINGS**

In the event of a meeting being for any reason adjourned any business not transacted shall be considered at:

- (a) a day, time and place fixed by the Council or Chairman at the time the meeting is adjourned or
- (b) at a day, time or place to be fixed by the Chairman or Assistant Director for Legal and Governance and notified to all Councillors by the Assistant Director for Legal and Governance at least three clear days in advance or
- (c) if the Chairman does not fix a day and time, at the next ordinary meeting of the Council.

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

The Assistant Director for Legal and Governance will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. Meetings may be summoned by the circulation of the agenda in paper copy or, if the member so elects, electronically.

## 12. **CHAIRMAN OF MEETING**

- 12.1 Any power or duty of the Chairman in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

### 12.2 **Urgent Business**

The Chairman of a meeting of the Council, or of a Committee, Panel or other member body may bring before the meeting of that particular body and cause to be considered an item of business not specified in the summons or agenda where the Chairman is of the opinion, by reason of special circumstances (which shall be specified in the minutes) that the item should be considered at the meeting as a matter of urgency.

### 12.3 **Rulings of the Chairman**

12.3.1 The Chairman shall decide any question as to the construction or application of any of these Procedural Standing Orders during any proceedings of the Council. His/her ruling shall be final and conclusive and acted on, and shall not be challenged at any meeting of the Council.

12.3.2 Without prejudice to the validity of any such decision or ruling of the Chairman, this PSO shall not be construed so as to prevent the Council reaching a decision, founded on a motion notice of which has been given in pursuance of these Procedural Standing Orders, which constitutes, or involves, the comment (whether critical or otherwise) on the merits of any decision of the Chairman.

### 13. **QUORUM**

13.1 Subject to 13.2 and 13.3 and except where authorised by statute or ordered by the Council, business shall not be transacted at a meeting of the Council, any Committee, Panel or other member body unless at least one quarter of the members of the Committee or other member body are present provided that in no case shall the quorum be less than three members.

13.2 The expression 'members of the Committee or other member body' in 13.1 shall mean members of the Committee, Panel or other member body entitled to vote.

#### 13.3 **Lack of Quorum**

If during any meeting of the Council the Chairman, after counting the number of Councillors present, declares that there is not a quorum present, no further business shall be considered at that point but the Chairman may at his or her discretion adjourn the meeting for a reasonable period to see if quorum can be regained. If there is no quorum present (or not present at the end of any such adjournment) then no further business shall be considered. Any business not so considered (including any business under consideration but not concluded at the time of the declaration by the Chairman) shall (without prejudice to PSO 4) be dealt with at the next meeting of the Council.

### 14. **NO SMOKING**

In accordance with legislation, there shall be no smoking at any time within Council buildings.

### 15. **PUBLIC PARTICIPATION AT MEETINGS**

15.1 Provision shall be made on the agenda of each Annual and Ordinary Meeting of the Council and, at the Chairman's absolute discretion, Extraordinary Meeting of the Council, Cabinet, and subject to 15.5 below any Committee, for members of the public to participate at the meeting in the manner specified in 15.4 below.

15.2 The length of time normally to be made available for such participation shall be as determined from time to time by the Council, Cabinet, or Committee authorised by the Council and different times may be determined for different Committees. The actual period of time spent by the Council, Cabinet or Committee during which the public are participating may, in the light of the circumstances prevailing at a particular meeting, be made shorter or longer at the respective Chairman's absolute discretion.

15.3 A member of the public for the purposes of this standing order shall not include:

- any employee of the Council in relation to any matter connected with his/her employment;
- any representative of an employee of the Council or group of such employees;
- any person in a contractual relationship with the Council in relation to any matter connected with that contract;
- any elected member of any local authority on a matter concerning that local authority, or (unless the Chairman determines otherwise) any person:
  - (without prejudice to 15.5) who is an applicant for a consent, approval, permission, licence or similar decision given by the Council under statute, or
  - (without prejudice to 15.5) who is an applicant for a consent, approval, permission, licence or similar decision given by the Council under statute, or
  - who is, referring, or is intending to refer, to any confidential or exempt matter on an agenda, or
  - who is appointed or engaged professionally to speak on behalf of another.

15.4 Unless the Council, Cabinet or a Committee (or in the circumstances of a particular case the Chairman of the Council, Cabinet or Committee, at his/her absolute discretion) determines otherwise and subject to the provisions of legislation or of any Public Participation Scheme as determined from time to time by the Assistant Director for Legal and Governance:

(a) a member of the public, speaking for no more than three minutes may:

- i. present a relevant petition to the Council, Cabinet or a Committee, and explain its contents or purpose;
- ii. ask a question at the Council, Cabinet or the Committee; or
- iii. make a comment on any matter on the agenda of the Council, Cabinet or a Committee.

(b) a Councillor may, on behalf of a member of the public or in his/her own right present a relevant petition to the Council and explain its contents or purpose.

(c) any member of the public wishing to participate in pursuance of 15.4(a) or any Councillor in pursuance of 15.4(b) shall notify the Assistant Director for Legal and Governance in writing or by electronic mail no later than 9:00 am on the working day before the meeting at which he/she wishes to participate, of his/her wish to participate and his/her name and address and indicate the nature and content of his/her participation (including an

outline of the main points to be made or asked). In exceptional circumstances, the Chairman may permit an oral question to be asked at the meeting without notice.

- (d) any petition shall be received by the Chairman generally without response on the day but shall be responded to in writing subsequently as soon as practicable.
- (e) any question shall be directed at the Chairman who may reply orally at the meeting, or in writing following the meeting or who may decline to reply, or who may ask the Leader, Cabinet Member with Responsibility or another member of the Council or the Committee or an officer so to reply on his/her behalf as soon as practicable, or may refer the question to the Cabinet or another appropriate Committee or member body.
- (f) no response shall generally be made to comments at the time but members of the Council, Cabinet or the Committee may allude to them in the course of the consideration of the relevant item; and
- (g) the Chairman of the meeting in question shall have the right to decide whether or not (because of the availability of time, or for any other reason) a member of the public is invited to participate in pursuance of PSO 15.4(a) above, notwithstanding that the member of the public in question has complied with the requirements of this Procedural Standing Order.

15.5 This PSO 15 shall not apply where there is any other procedure devised by or on behalf of the Council to allow persons who are not county councillors to participate in any specific matter coming before a Committee of the Council (including e.g. any matter involving a consent, approval, permission, licence, or similar decision), nor to a meeting of a sub-committee.

#### 15.6 **Scope of Public Participation**

The Assistant Director for Legal and Governance may reject a request for public participation if it:

- (a) is not about a matter for which the Council has responsibility or which affects the County;
- (b) is defamatory, frivolous or offensive;
- (c) is substantially the same as public participation in or a question which has been put to a meeting of the Council, Cabinet or a Committee in the past six months;
- (d) requires or involves the disclosure of confidential or exempt information; or
- (e) is better directed to Council, Cabinet or another Committee in which case the request shall be deemed to be to participate in the next meeting of that body.

## 16. QUESTIONS BY MEMBERS

### 16.1 Questions Upon Reports

A Councillor may ask the Leader, a Cabinet Member with Responsibility, the Chairman of a Committee or spokesmen in their absence or appropriate spokesperson for the West Mercia Police and Crime Panel or the Hereford and Worcester Fire and Rescue Authority a question when any report of the relevant body is under consideration by the Council; and a Councillor may ask the Leader, a Cabinet Member with Responsibility, the Chairman of the Overview and Scrutiny Performance Board or the Chief Executive a question when his/her report is under consideration by Council. A maximum of 30 minutes will be permitted for questions and answers on a report from a Cabinet Member with Responsibility.

### 16.2 Question Time

16.2.1 At each meeting of the Council (excluding any Extraordinary meetings and the first annual meeting of the Council after ordinary elections) there shall be 30 minutes set aside for formal questions from Councillors.

16.2.2 Subject to 16.2.3 and 16.2.4 below, a Councillor may ask:

- the Leader of the Council; or
- a Cabinet Member with Responsibility

a question on any matter in connection with the discharge of the Council's functions or which affects the County; and any such question may relate to any issue such as emanating from scrutiny exercises, local concerns or advocate/watchdog roles (if established).

A Councillor may also ask a question of the Chairman of the Council, of a Chairman of a Committee and of the member nominated in respect of the West Mercia Police and Crime Panel and Hereford and Worcester Fire and Rescue Authority in relation to the responsibilities of those bodies.

16.2.3 A Councillor may only ask a question if either:

- (a) he/she has delivered (by hand, post or email) to the Assistant Director for Legal and Governance or his nominees a written question by noon on the ninth calendar day before the date fixed for the meeting; or
- (b) the question relates to urgent business, and written notification of the question is given to the Assistant Director for Legal and Governance at least half an hour before the scheduled start of the meeting, and the Chairman agrees the matter is urgent.

16.2.4 The Chairman has the discretion to decide which questions submitted in pursuance of 16.2.3 may be answered in the time available, but shall ensure that each Group Leader may ask at least one question at each question time. No

Councillor shall normally be entitled to ask more than two questions at any Question Time.

16.2.5 Where a Councillor submits more than one question for Question Time, the questions must be ranked in order of priority, and the second question will be placed appropriately on the agenda.

### 16.3 **Answers**

16.3.1 Every question shall be put and answered without discussion, but the person to whom a question has been put may decline to answer.

16.3.2 Subject to paragraph 16.3.1, a question to a Cabinet Member with Responsibility shall normally be answered by that Member although he/she may call upon another Member of the Cabinet to answer it or give any supplementary information.

16.3.3 A written answer will normally be provided after the Council meeting but an answer at the meeting may take the form of:

- (a) a direct oral answer; or
- (b) where the desired information is contained in a publication of the Council or other published document, a reference to that publication.

Any written question will normally be taken as read and not read out at the meeting.

16.3.4 Written answers to original questions shall be appended to the signed minutes of the relevant meeting of the Council and, subject to the provisions of Access to Information Rules and Part VA of the Local Government Act 1972, be open to public inspection. They need not, however, be reproduced as part of any copy of such minutes.

#### 16.4 **Supplementary Question**

A member may with the consent of the Chairman follow up the original question with a supplementary question to the same person. No notice needs to be given but the supplementary must arise directly out of the original question or reply to it.

### 17 **NOTICES OF MOTION**

- 17.1 Notice of every motion, (other than a motion which under PSO 18 may be moved without notice), must:
- (a) relate to the statutory functions of the County Council or affect the County Council in particular;
  - (b) be given in writing (which includes electronic mail), signed by at least three Councillors (except as provided in PSO 20) giving the notice; and
  - (c) delivered, at the latest, by noon on the ninth calendar day before the date fixed for the next meeting of the Council, to the Assistant Director for Legal and Governance or his nominee.
- 17.2 The Assistant Director for Legal and Governance will place on the agenda of the next meeting of the Council a report of Motions for which proper notice has been given in the order in which they were received. Up to 90 minutes will be allowed for all discussions of Notices of Motion on the agenda for a Council meeting. At the end of the 90 minutes then unless Council resolves otherwise, it will follow the procedure at paragraph 17.6 below.
- 17.3 If a motion is in relation to the exercise of an executive function, and it has been moved and seconded, it may be discussed by the Council if Council so wishes but ordinarily only the mover, seconder, and Group Leaders or their nominees will speak to it, and the motion will in any event stand referred to the Cabinet for consideration and decision. The Cabinet will consider the motion in the light of the Council's views (if any) and advise the Council of its decision in a subsequent report.
- 17.4 If a motion is in relation to the exercise of a function which the Council has reserved to itself for decision or is a non-executive function and it has been moved and seconded, the Council may decide that the motion be considered at that meeting, debated and voted upon. Otherwise, the motion will stand referred to the Cabinet or other appropriate Committee which after consideration of it will report to the next available meeting of Council incorporating any advice as to how the Council should determine the motion.
- 17.5 In the event of any Notice of Motion being delivered later than required in paragraph 17.1, then the procedure in paragraph 17.2 shall be followed as if references to the next meeting of the Council were references to the next but one meeting of the Council.
- 17.6 If a Motion is being debated when the 90 minute time limit at paragraph 17.2 is reached, the Chairman will ask any Councillor then speaking to wind up and:.

- (a) If the speaker is proposing the motion then it can be formally seconded without comment;
- (b) If the speaker is moving an amendment, the Chairman will allow the amendment to be formally seconded without comment, and the mover of the substantive motion to exercise their right of reply for up to 2 minutes or as directed by the Chairman;
- (c) If neither (a) nor (b) then the mover of the amendment (if any) and substantive motion will be allowed to have their right of reply for up to 2 minutes or as directed by the Chairman.

The Chairman will put to the vote, without further discussion, all matters necessary to dispose of the amendment and/or motion in hand, and then move to the next agenda item.

- 17.7 If a motion submitted in pursuance of this PSO is not moved and seconded at the meeting of the Council, it shall, unless postponed with the consent of the Council, be treated as withdrawn and shall not be moved without further notice.

**17.7 Mover of motion may attend Cabinet or Committee**

Any Councillor who has moved or seconded a motion which has been referred to the Cabinet or any Committee or whose name appears as one of the first three (or in accordance with PSO 20 five) signatories to a Notice of Motion shall have notice of any meeting of the Cabinet or any Committee at which it is proposed to consider the motion. If such Councillor is not a member of the Cabinet or any such Committee, he/she shall have the right to attend the meeting and, if he/she attends, shall have an opportunity of explaining the motion and speaking on it, but shall not be entitled to vote on it.

**17.8 Withdrawal of Motion**

A Motion under this PSO may be withdrawn at any time, provided such withdrawal either:

- (a) is in writing, is signed by all the Councillors who signed the Notice of Motion and is delivered to the Assistant Director for Legal and Governance, or
- (b) is made at any meeting at which the Motion is being considered by all the Councillors who signed the Notice of Motion who are present at that meeting.

## 17.9 **Alteration of Motion**

A Motion notice of which is given in pursuance of this PSO may be altered, provided any such alteration either:

- (a) is in writing, signed by all the Councillors who signed the Notice of Motion and is delivered to the Assistant Director for Legal and Governance by noon on the third working day before the date fixed for the meeting of the Council to which the Assistant Director for Legal and Governance has reported it in pursuance of the provisions of this PSO; or
- (b) is made at the meeting where the Motion is being considered by all the Councillors who signed the Notice of Motion who are present at that meeting.

## 18. **MOTIONS WITHOUT NOTICE**

### **Motions and Amendments which may be moved without Notice**

The following motions and amendments may be moved without notice:

- (a) election of a Chairman of the meeting at which the motion is made;
- (b) appointment of a Vice-Chairman at the meeting at which the motion is made;
- (c) to choose a person to preside if the Chairman and Vice-Chairman are absent;
- (d) appointment (but not removal) of the Leader of the Council in pursuance of PSO 2.2;
- (e) motions relating to the accuracy and signing of the Minutes;
- (f) that the order of business specified in the summons be varied;
- (g) reference or reference back to the Cabinet or a Committee or any other member body as set out in the scheme of delegation and assignment of functions;
- (h) appointment of a Committee or any other member body as set out in the scheme of delegation and assignment of functions or members thereof, occasioned by an item mentioned in the summons to that meeting or a report annexed thereto;
- (i) appointment of the Chairman and Vice-Chairman of a Committee or any other member body as set out in the scheme of delegation and assignment of functions, or any Scrutiny lead member on the Overview and Scrutiny Performance Board;
- (j) adoption of reports and recommendations of Committees or officers and any consequent resolutions;

- (k) that a notice of motion be debated at Council in pursuance of PSO 17  
(Notices of Motion);
- (l) altering the time limit for speeches;
- (m) amendments or alterations to motions;
- (n) that the Council proceed to the next business;
- (o) that the question be now put;
- (p) that the debate be now adjourned;
- (q) that the Council do now adjourn;
- (r) suspending Standing Orders, in accordance with PSO 29;
- (s) to exclude the public under Section 100A of the Local Government Act 1972,  
or the Access to Information Rules;
- (t) that a Councillor named under PSO 21 (Disorderly Conduct) be not further  
heard or do leave the meeting;
- (u) giving consent of the Council where the consent of the Council is required by  
these Standing Orders;
- (v) application of procedure in PSO 24 (voting to fill vacancies etc).

## 19 **RULES OF DEBATE**

### 19.1 **Motions and Amendments**

19.1.1 A motion or amendment shall not be discussed unless it has been proposed and seconded and it shall, if required by the Chairman, be put into writing and handed to the Chairman before it is further discussed or put to the meeting.

19.1.2 However, a motion that:

- (a) recommendations of the Cabinet or a Committee be adopted;
- (b) a report of the Cabinet or a Committee be received;

shall not be required to be seconded.

### 19.2 **Secunder's Speech**

A Councillor, when seconding a motion or amendment, may, if he/she then declares his/her intention to do so, reserve his/her speech until a later period of the debate.

### 19.3 **Only one member to speak at a time**

A Councillor, when speaking, shall (unless the Chairman determines otherwise) stand and address the Chairman. If two or more Councillors rise, the Chairman shall call on one to speak; and the other or others shall then sit. While a Councillor is speaking, the other Councillors shall remain seated, unless rising to a point of order or in personal explanation in pursuance of PSO 19.13 or 19.14.

### 19.4 **Content and length of speeches**

A Councillor shall direct his/her speech to the question under discussion or to a personal explanation or to a point of order. Unless the Chairman decides otherwise, each speech shall be limited to five minutes for the Mover and Secunder and Group Leaders (or their nominees) and two minutes for all other Councillors. A person exercising a right of reply shall be similarly limited in his/her reply.

### 19.5 **When a member may speak again**

Councillors who have spoken on any matter shall not speak again without the leave of the Chairman whilst that matter is the subject of debate EXCEPT:

- (a) to move a further amendment if the motion has been amended since they last spoke;
- (b) if their first speech was on an amendment moved by another Councillor, to speak on the main issue, whether or not the amendment on which they spoke was carried;
- (c) in exercise of a right of reply given by PSO 19.10 or 19.12;
- (d) on a point of order;
- (e) by leave of the Chairman, by way of personal explanation;
- (f) to speak once on an amendment moved by another Councillor.

### 19.6 **Amendments to motions**

An amendment shall be relevant to the motion and shall be either:

- (a) to refer a matter to the Cabinet or a Committee or other member body for consideration or re-consideration;
- (b) to leave out words;
- (c) to leave out words and insert or add others; or
- (d) to insert or add words;

but no amendment shall be allowed which has the effect of negating the motion before Council.

- 19.7 Only one amendment may be moved and discussed at any time and no further amendment shall be moved until the amendment under discussion has been disposed of, but notice of any number of amendments may be given. However, the Chairman may permit two or more amendments to be discussed (but not

voted on) together, if circumstances suggest to him/her that this course would facilitate the proper conduct of the Council's business.

- 19.8 If an amendment be lost, other amendments to the original motion may be moved. If an amendment be carried, the motion as amended shall take the place of the original motion and shall (without any formal vote to this effect) become the substantive motion upon which any further amendment may be moved. If no further amendment is moved, the substantive motion shall be put at the end of the debate.

**19.9 Withdrawal or Alteration of Motion**

Without prejudice to PSO 17.8 a motion or amendment may, with the consent of the Seconder, be

- (a) withdrawn by the Mover and no person may thereafter speak upon it, or
- (b) altered by the Mover provided the alteration is one which could have been made by way of amendment.

**19.10 Rights of Reply**

- 19.10.1 The Mover of a motion has a right to reply at the close of the debate on the motion, immediately before it is put to the vote.

- 19.10.2 If an amendment is moved, the Mover of the original motion shall also have a right of reply at the close of the debate on the amendment, and shall not otherwise speak on the amendment. The mover of the amendment shall have a right of reply to the debate on his/her amendment, immediately before the final right of reply of the Mover of the original motion.

- 19.10.3 A reply shall be strictly confined to answering previous speakers and shall not introduce new matters.

**19.11 Motions which may be moved during debate**

When a motion is under debate no other motion shall be moved except the following:

- (a) to amend or alter the motion;
- (b) to adjourn the meeting;
- (c) to adjourn the debate;
- (d) to defer consideration of the motion to a later date (which may, but need not, be specified);
- (e) to proceed to the next business;
- (f) that the question be now put;
- (g) that a Councillor be not further heard;

- (h) by the Chairman under PSO 21 that a Councillor do leave the meeting;
- (i) that the motion under debate be referred to Cabinet, a committee or other member body for consideration or reconsideration and report to the next meeting of the Council; or
- (j) to exclude the public under Section 100A of the Local Government Act 1972 or the Access to Information Rules.

## 19.12 Closure Motions

19.12.1 A Councillor may move without comment at the conclusion of a speech of another Councillor:

- i. 'That the Council proceed to the next business';
- ii. 'That the question be now put';
- iii. 'That the debate be now adjourned'; or
- iv. 'That the Council do now adjourn',

on the seconding of which the Chairman shall proceed as follows:

- (a) if a motion to proceed to next business is seconded and the Chairman thinks that the matter has been sufficiently discussed, he/she shall first give the Mover of the original motion under discussion (but not the mover of any amendment under discussion) a right of reply and then put to the vote the motion to proceed to next business. If that motion is carried the Council shall thereupon cease to discuss any motion or amendment under discussion and shall not discuss any original motion or any amendments of which notice had been given;
- (b) if a motion that the question be now put is seconded and the Chairman thinks that the matter has been sufficiently discussed, he/she shall first put to the vote the motion that the question be now put, and if it is carried, then give the Mover of the original motion his/her right of reply under PSO 19.10 of this Standing Order (and, if an amendment is being discussed, the mover of the amendment his/her same right) before putting the motion or amendment (as the case may be) to the vote;
- (c) if a motion to adjourn the debate or the meeting is seconded and the Chairman thinks that the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion, he/she shall put the adjournment motion to the vote without giving the Mover of the original motion (or the mover of any amendment) his/her right of reply on that occasion.

19.12.2 Provided that if any of the closure motions contained in this paragraph be put and lost, the same motion shall not be moved in respect of the same business, question, debate or meeting (as the case may be) within a period of thirty minutes without leave of the Chairman.

### **19.13 Points of Order**

19.13.1 A Councillor may rise on a point of order and shall be entitled to be heard forthwith.

19.13.2 A point of order shall relate only to an alleged breach of a Procedural Standing Order or statutory provision which the Councillor shall specify (including by number if so required by the Chairman) including the way in which he or she considers it has been broken.

### **19.14 Personal Explanations**

19.14.1 A Councillor may rise in personal explanation and, with the approval of the Chairman, shall be entitled to be heard forthwith.

19.14.2 A personal explanation shall be confined to some material part of a former speech by him/her which may appear to have been misunderstood in the present debate or relates to a statement made in the present debate which he/she considers reflects adversely on his/her reputation or integrity. .

## **20. PREVIOUS DECISIONS AND MOTIONS**

20.1 No motion to rescind any resolution passed by the Council within the preceding six months, and no motion or amendment to the same effect as one which has been rejected within the preceding six months, shall be proposed, unless the notice thereof given in pursuance of PSO 17 bears the signature of at least five Councillors. Once any such motion or amendment has been disposed of by the Council, it shall not be open to any Councillor to propose a similar motion within a further period of six months whether or not signed by five members.

20.2 This Procedural Standing Order shall not apply to motions moved in pursuance of a recommendation in the report of the Cabinet or a Committee or other member body.

## **21. COUNCILLORS' CONDUCT**

### **21.1 Councillors Speaking**

21.1.1 When a Councillor wishes to speak, he/she will indicate to the Chairman (either electronically or by show of hands as directed by the Chairman) but no Councillor shall speak unless called to do so by the Chairman.

21.1.2 When called to speak a Councillor must stand and address the meeting through the Chairman. If more than one member stands, the Chairman will ask one to speak and the others must sit.

21.1.3 Other Councillors must remain seated whilst a Councillor is speaking unless they wish to rise to make a point of order or a point of personal explanation.

## 21.2 **Respect for the Chair**

Whenever the Chairman rises during a debate any Councillor then standing shall resume his/her seat and the Council shall be silent.

## 21.3 **Disorderly Conduct**

If at a meeting any Councillor, in the opinion of the Chairman, misconducts himself by persistently disregarding the ruling of the Chairman, or by behaving irregularly, improperly, or offensively, or by wilfully obstructing the business of the Council, the Chairman or any other Councillor may move 'That the Councillor named be not further heard', and the motion if seconded shall be put and determined without discussion.

## 21.4 **Continuing misconduct by a named Councillor**

If the Councillor named continues his/her misconduct after a motion under the foregoing paragraph has been carried, the Chairman shall:

EITHER move 'That the Councillor named do leave the meeting' (in which case the motion shall be put and determined without seconding or discussion);

OR adjourn the meeting of the Council for such period as he/she in his/her discretion shall consider expedient.

## 21.5 **General disturbance**

In the event of general disturbance which, in the opinion of the Chairman, renders the due and orderly despatch of business impossible, the Chairman, in addition to any other power vested in him/her may adjourn the meeting of the Council for such period as he/she in his/her discretion shall consider expedient.

## 22. **MEMBERS' INTERESTS**

22.1 If any Councillor has a disclosable interest (as defined in the Members' Code of Conduct or legislation) in any matter under consideration, the Councillor shall as required by the Code or legislation disclose to the meeting the existence and nature of that interest at the commencement of the meeting or failing that at the commencement of the consideration of the matter or when the interest becomes apparent to the member.

22.2 If that interest requires the Councillor to leave the meeting in accordance with the Members' Code of Conduct or legislation, the Councillor shall withdraw in accordance with that Code from the room or Chamber (including the public gallery or seating) where the meeting is taking place whenever it becomes apparent that the matter is being considered at that meeting and for the duration of that consideration, unless:

- (a) the Councillor has obtained a dispensation from the Standards and Ethics Committee; or
- (b) attendance and participation is otherwise permitted in accordance with the Members' Code of Conduct.

22.3 Any disclosure, withdrawal or dispensation under this rule shall be recorded in the minutes of the meeting concerned and noted by the Assistant Director for Legal and Governance.

## **DISTURBANCE BY THE PUBLIC**

### **23.1 Removal of a Member of the Public**

If a member of the public interrupts or disturbs the proceedings at any meeting, the Chairman shall warn him/her. If he/she continues the interruption, the Chairman shall order his/her removal from the meeting room or Council premises where the meeting is being held.

### **23.2 General Disturbance**

In case of general disturbance in any part of the room open to the public, the Chairman shall order that part to be cleared.

## **24. VOTING**

### **24.1 Majority Voting**

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 is put. If there is an equality of votes, the Chairman may use a second or casting vote.

### **24.2 Mode of Voting**

Unless a recorded vote is demanded under 24.3 the mode of voting at meetings of the Council shall be by general assent (which may be directed by the Chairman whether or not general assent has already been signified), by show of hands or by electronic voting, (at the discretion of the Chairman or person presiding at the meeting).

### **24.3 Named and Recorded Votes**

24.3.1 On the requisition of not less than five Councillors made by rising in their places prior to the vote being taken, the voting on any question shall be recorded so as to show how each Councillor present and voting gave his/her vote or who

abstained from voting. This recording of votes may be manual or electronic, at the discretion of the Chairman or person presiding at the meeting.

24.3.2 Where immediately after a vote is taken at a meeting of the Council, a Committee, Panel or other member body and a voting member so requires, there shall be recorded in the minutes of that meeting whether that person cast his/her vote for or against the question or whether he/she or she abstained.

24.3.3 Immediately after any vote on the budget calculations or precept is taken at a budget decision meeting of the Council there must be recorded in the Minutes of the proceedings of that meeting the names of the persons who cast the vote for the decision or against the decision or who abstained from voting.

#### **24.4 Voting on Appointments or Vacancies**

24.4.1 Where there are more than two persons nominated for any single position to be filled, and of the votes given there is not an overall majority in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken, and so on until a majority of votes is given in favour of one person.

24.4.2 The procedure in the preceding paragraph shall also apply in any case where the Council, Committee, Panel or other member body wish to select one person from three or more persons to be appointed to any paid office or employment under the Council.

24.4.3 The procedure in 24.2.1 may, by majority vote, be applied in any other case where the Council, Committee, Panel or other member body wish for whatever purpose to select one name from three or more names before them.

#### **24.5 Multiple Appointments**

24.5.1 If the Council has to fill two or more positions on any internal or external organisation, the names of persons to be appointed must be moved and seconded.

24.5.2 If there are more nominations than positions, each member will be entitled to one vote for each nominee up to the same number as there are positions. The nominees that have the highest number of votes shall be appointed. If an equality of votes prevents a decision being made, the Chairman may use his/her casting vote to decide which of the nominees, who have the same number of votes, shall be appointed.

### **25. RECORD OF ATTENDANCE**

Every Councillor attending a meeting of the Council shall sign his/her name in the attendance book or sheet which shall be provided for that purpose, unless the Chairman directs otherwise.

## **26. FILMING OR RECORDING OF MEETINGS**

The Council webcasts many of its meetings and members of the public are welcome to report on any of the Council's meetings which are held in public by filming, photographing, making an audio recording or otherwise reporting on them, e.g. through the use of social media. Prior permission to report is not required, but would be helpful to ensure practical arrangements are in place. To ensure there is no disruption a protocol for filming or recording public meetings is published by the Council and must be adhered to. Unless the Chairman directs otherwise, a public meeting of the Council will normally be filmed for the purpose of an officially recordable webcast.

## **27. ELECTRONIC COMMUNICATION**

If these Procedural Standing Orders require that written notice is given to the Assistant Director for Legal and Governance, such notice will be accepted if received by the Assistant Director for Legal and Governance or his nominee by email or fax within the specified deadline.

## **28. EXCLUSION OF THE PRESS AND PUBLIC**

Members of the press and public may only be excluded from meetings of a member body in accordance with the law, the Access to Information Rules or PSO 23 (Disturbance by the Public).

## **29. THE SUSPENSION AND AMENDMENT OF PROCEDURAL STANDING ORDERS**

### **29.1 Suspension**

All of these Procedural Standing Orders except as set out in 29.2 may be suspended by motion with or without notice if at least one half of the whole number of the members of the Council, Committee, Panel or other member body are present. Suspension can only be so far as regards any business at the meeting where the suspension is agreed.

29.2 The following Procedural Standing Orders or parts of them may not be suspended:

- i. PSO 2.1, 2.2, 3.1, 4.1 and 4.2 – Meetings and Business of the Council
- ii. PSO 2.3, 3.3 and 4.3 – Variation of order of business
- iii. PSO 5.3 – Minutes
- iv. PSO 10 – Adjourned meetings
- v. PSO 12 – Chairman of meeting
- vi. PSO 13 – Quorum of Committees and other member bodies
- vii. PSO19.10 – Right of reply
- viii. PSO19.12 – Closure motions
- ix. PSO 21.2 – Respect for Chair

- x. PSO 21.3 – Disorderly Conduct by Councillors
- xi. PSO 21.4 – Continuing Misconduct by a named Councillor
- xii. PSO 21.5 – General Disturbance
- xiii. PSO 22 – Members' Interests
- xiv. PSO 23 – Disturbance by members of the public
- xv. PSO 24 - Voting

### 29.3 **Amendment**

Any motion to alter or amend these Procedural Standing Orders other than on the recommendation in a report of the Monitoring Officer will, when proposed and seconded, stand adjourned without discussion to the next meeting of the Council which will receive a report from the Monitoring Officer.

### 30. **APPLICATION TO COMMITTEES AND OTHER MEMBER BODIES**

The following Procedural Standing Orders shall, with any necessary modifications, apply to Committee and Panel meetings and meetings of the Cabinet unless the Leader or Cabinet determines otherwise:

- PSO 5.1 , 5.3 and 5.4 – Minutes, Reports and Circulated Documents
- PSO 6.2 – Substituted Membership of Committees and other Member Bodies (not applicable to Scrutiny Bodies for Cabinet)
- PSO 7.3, 7.4 and 7.5 – Chairman and Vice-Chairman of Committees and other Member Bodies
- PSO 9 – Time and Place of Meetings and Committees and other Member Bodies
- PSO 10 – Adjourned Meetings
- PSO 11 – Notice and Summons to Meetings
- PSO 12 – Chairman of Meeting
- PSO 13 – Quorum
- PSO 14 – No Smoking
- PSO 15 – Public Participation at Meetings (not to Panels nor Standard and Ethics sub-committees)
- PSO 17.7 and 17.8 – Notices of Motion
- PSO 18 a-c, e, f, j, l-v – Motions without Notice
- PSO 19 (except 19.3 and 19.5) – Rules of Debate
- PSO 21 (except 21.1) – Councillors' Conduct
- PSO 22 – Members' Interests
- PSO 23 – Disturbance by the Public
- PSO 24 – Voting
- PSO 25 – Record of Attendance
- PSO 26 – Filming or Recording of Meetings
- PSO 27 – Electronic Communication
- PSO 28 – Exclusion of the Press and Public
- PSO 29 – Suspension and Amendment of Procedural Standing Orders

### **31. DISCRETION OF THE ASSISTANT DIRECTOR FOR LEGAL AND GOVERNANCE**

Where the Assistant Director for Legal and Governance is required, whether by Statute, Standing Order or otherwise, to issue any document (including any agenda), to give notice of any thing, or reproduce, or otherwise communicate the contents of any notice or document (including a Notice of Motion or questions asked in pursuance of PSO 16), delivered to the Assistant Director for Legal and Governance, he shall exclude any matter which, in his opinion, on the grounds of confidentiality, liability for defamation or otherwise, ought not to be published.

### **32. GUIDANCE**

The Monitoring Officer may approve or produce guidance from time to time which will explain in more detail as to the way in which the Council's procedural business is to be conducted.

### **33. STATE OF THE COUNTY GREEN PAPER / KEY ISSUES DEBATES**

- 33.1 The Leader will enable a State of the County Debate annually on a date (and in a form) to be agreed with the Chairman of Council. This is usually in the form of a report from the Leader on the position of the Council.
- 33.2 The Council may hold other debates based on a 'green paper' from the Cabinet or Cabinet Member with Responsibility setting out a preliminary broad direction of policy.
- 33.3 At least 10 Councillors may propose in writing to the Assistant Director for Legal and Governance a specific key issue for debate by the Council. The Chairman will decide whether or not the issue is suitable for such debate. Any such issue must relate to the statutory functions of the Council or affect the area of the County and will not normally relate to local issues. The Chairman may also decide on a key issue for debate, whether or not proposed as above.
- 33.4 The Chairman will decide on the date and form of such debates and may call such debates, normally to take place at the conclusion of the business of any meeting of the Council or such other place on the agenda as the Chairman considers appropriate.
- 33.5 The Chairman will chair such debates.
- 33.6 Each debate may receive wide publicity at the discretion of the Chairman and whilst the Chairman may decide the specific form of a specific debate, such debate may involve the participation of external speakers, partners, organisations and public. Such debates may include the holding of workshops and other events prior to or during the debate.
- 33.7 The Chairman shall be entitled to regulate the proceedings in accordance with the Council's Procedural Standing Orders or in such other way as he/she thinks fit.

33.8 Councillors will not take any decisions in connection with or vote on the matter under debate. The key points which emerge from the debate will be published as appropriate and will be considered by the Leader, the Cabinet and/or the Council as appropriate in determining the budget and policy framework of the Council.

#### 34. **INTERPRETATION**

In these Procedural Standing Orders:

(a) "Committee" means

- Planning and Regulatory Committee
- Standards and Ethics Committee
- Overview and Scrutiny Performance Board
- Health Overview and Scrutiny Committee
- An Overview and Scrutiny Panel (but not Task Group)
- Audit and Governance Committee
- Waste Credit Governance Committee
- Pensions Committee and
- any other formal Committee or Sub-Committee established from time to time by the Council (but for the avoidance of doubt this does not include SACRE);

(b) "Panel" means

- Appointments etc Panel and
- Appellate Panel;

(c) "Any other member body" means any other member body established from time to time by the Council; and

(d) 'in writing' includes electronic mail or fax, and 'signed' includes support expressed by electronic mail or fax.

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# **CABINET PROCEDURE RULES**

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## **APPENDIX 3 - CABINET PROCEDURE RULES**

### **1. The Cabinet**

#### **Form and Composition**

- 1.1 The Articles of the Constitution, and in particular Article 6, establish the constitutional and governance position of the Leader and Cabinet. These Rules provide some more detail on the procedures to be followed.
- 1.2 The Cabinet will consist of the Leader of the Council ('the Leader'), and at least 2 and up to 9 other Councillors (of whom one will be designated as Deputy Leader), appointed to the Cabinet from time to time by the Leader.
- 1.3 The Cabinet is not a Committee of the Council. Its composition is not required to be according to the political balance of the Council.
- 1.4 The Leader will decide on the size of the Cabinet, nature and number of areas of responsibility and their allocation to members of the Cabinet (Cabinet Members with Responsibility – CMRs) from time to time.
- 1.5 The Leader may at any time remove and appoint any CMR and any appointment or removal will take effect on the receipt by The Assistant Director for Legal and Governance of such notification.

#### **Role and Responsibility**

- 1.6 The role of the Leader and Cabinet is to provide political leadership for the Council, to lead the preparation of the Council's policies and budget, to implement the Council's policies and budget, and to hold political responsibility for and to take any necessary decisions on executive functions for which the Leader or Cabinet has responsibility.
- 1.7 The Leader and Cabinet will carry out the functions set out from time to time in the Scheme of Assignment of Responsibility for Functions (Appendix 1) which will include all matters which are executive functions and all other functions the executive may perform including all local choice functions which have not otherwise been allocated under this Constitution. The Leader has delegated to officers all such functions as are contained within the Officers' Scheme of Delegation within Appendix 1. The Leader may determine that the Cabinet will take collective decisions in respect of matters which are the responsibility of the executive, or may determine those matters him or herself or authorise individual CMRs or officers to take such decisions, in compliance with Access to Information requirements.
- 1.8 The Leader and Cabinet will as appropriate or necessary in the circumstances seek the advice of the Chief Officers on any matter and shall have regard to any advice so given.

1.9 (a) The Assistant Director for Legal and Governance is designated Proper Officer for matters relating to the membership and meetings of the Cabinet, including summoning meetings of the Cabinet, circulating the Agenda and papers for such meetings, and recording every decision taken by the Cabinet. Such record shall include the reasons for such decisions and any alternative options considered and rejected.

(b) The Assistant Director for Legal and Governance as Proper Officer is responsible for undertaking the various notifications of decisions of the Cabinet required by this Constitution.

### **Cabinet Members with Responsibility (CMRs)**

1.10 A CMR holds political responsibility within the scope of the area assigned to him/her by the Leader and is accountable to the Leader in relation to that area. The CMR provides political leadership in the formulation of strategies and plans within his/her area of responsibility, and in the setting of appropriate objectives and targets, prior to any approval by Cabinet and/or Council, as appropriate, or as authorised to take such decisions by the Leader.

1.11 The CMR provides political leadership in ensuring that service strategies, plans, objectives and targets within his/her area of responsibility are monitored, implemented and achieved.

1.12 The CMR is the principal political spokesperson for that area of responsibility, and may take decisions on executive functions to the extent that authority is delegated by the Leader or Cabinet, and in accordance with the Access to Information Rules.

1.13 The CMR will respond or advise the Cabinet on how to respond to a report from the Overview and Scrutiny Performance Board relating to his/her area of responsibility.

### **Advisory Member Groups**

1.14 The CMR may, on an 'as needs' basis establish ad hoc member groups to assist him/her, on an advisory basis, with policy development or on difficult issues facing him/her. Further detail is given in the role descriptions for CMR's in Appendix 12.

### **Role Description and Protocols**

1.15 Role descriptions and protocols have been drawn up governing how the CMR should carry out his or her responsibilities. These are contained in Appendix 12 of the Constitution.

## 2. Taking Executive Decisions

- 2.1 The Leader or Cabinet has no power to:
- (a) take decisions on matters reserved to the full Council; or
  - (b) take decisions on matters which may not by law be determined by the Leader or Cabinet, or on local choice matters which have been assigned elsewhere except as permitted by this Constitution or the law.
- 2.2 Subject to 1.7 and 2.1 above, the Cabinet may collectively take any decision on any matter which is an executive function or otherwise which is the responsibility of the executive. The Cabinet will in general be taking any decision which is a 'key decision' as defined in the Access to Information provisions, unless individual CMRs or officers have been delegated the authority to do so.
- 2.3 The Cabinet may also take decisions on any matter which:
- (a) has been referred to the Cabinet by the Council, a CMR or any Chief Officer (whether or not the Chief Officer in question has delegated powers in respect of that matter); or
  - (b) is one which the Cabinet has specifically reserved for decision to itself.
- 2.4 The Leader or Cabinet may establish one or more Working Groups for specified and time-limited purposes. Such Groups shall have no delegated powers but shall report with recommendations to the Leader or Cabinet. The Leader or Cabinet shall appoint the Chairman and members of any such Working Group from amongst the members of the Cabinet.
- 2.5
- (a) The Leader or Cabinet may delegate to a Chief Officer any power or responsibility or function which it is the responsibility of the Leader or Cabinet to discharge and may add to, vary, or delete any delegation of such power, responsibility or function from time to time. The Scheme of Assignment of Responsibility for Functions at Appendix 1 contains the Officers' Scheme of Delegation setting out those general delegations which have been made, and which may be varied from time to time.
  - (b) The Chief Officer may delegate further all or any of those delegated powers, responsibilities or functions to other officers.
  - (c) The Leader or Cabinet may delegate any responsibility for the exercise of a function which is the responsibility of the executive to the Leader, any CMR, another local authority or its executive or a joint committee.
  - (d) A CMR who holds delegated authority may delegate further all or any of those delegated powers, responsibilities or functions to an officer.
- 2.6 Even where executive functions have been delegated, that fact does not prevent the discharge of those functions by the person or body who delegated those functions.

- 2.7 When a matter raises an issue of such exceptional significance and public interest, the Leader or Cabinet may choose to seek the views of the Full Council before Cabinet makes its decision on that matter.
- 2.8 When a decision is made by the Cabinet, Leader, or CMR, the decision shall be recorded and published either in the Minutes of the Cabinet meeting at which the decision was taken or in the Record of Decision of the Cabinet or CMR and such a record shall be available at County Hall, Worcester normally within three working days of the decision being made and placed on the Council's website. All Councillors will be sent electronic notification of the Minutes or Record of Decision at the same time.
- 2.9 The Minutes of the Cabinet meeting in question or Record of Decision of Cabinet or CMR will bear the date on which they are published under paragraph 2.8 and will specify if paragraph 17.16 (urgency) of the Overview and Scrutiny Procedure Rules (Appendix 4) applies. If not, the decision may then be implemented on the fifth working day after the publication of the decision (counting from the Record of Decision or Minutes, whichever is circulated earlier), unless it is called-in under paragraph 17.5 of the Overview and Scrutiny Procedure Rules. If paragraph 17.16 does apply, the decision may be implemented immediately upon its making.
- 2.10 A CMR shall, in preparing a report for the Cabinet, consider whether or not urgent implementation is necessary in accordance with the application of the procedure in Paragraph 17.16 of the Overview and Scrutiny Procedure Rules.

### **3. Interests**

- 3.1 Where any member of the Cabinet has an interest in a matter under consideration this should be dealt with as set out in the Members' Code of Conduct in Appendix 10 of this Constitution.
- 3.2 The Standards and Ethics Committee may in appropriate circumstances and in line with legislative provisions grant dispensations to any member of the Cabinet in respect of an interest, as it may in respect of all meetings of Committees or Council.

### **4. Cabinet Meetings**

- 4.1 The Cabinet will normally meet at approximately monthly intervals and when necessary at other times to be agreed by the Leader. The Cabinet will meet at County Hall, Worcester or at another location agreed by the Leader. In accordance with these provisions, the Leader, after consultation with The Assistant Director for Legal and Governance, will decide upon the schedule and location of meetings and may vary this from time to time.
- 4.2 The Cabinet may regulate the conduct of its own proceedings but may adopt such provisions of the Council's Procedural Standing Orders as it deems appropriate.

4.3 The Cabinet will meet in public, unless the matter to be discussed is likely to disclose confidential or exempt information, in which case the Cabinet may exclude the press and public from the meeting. The Access to Information Rules in Appendix 5 of this Constitution set out the requirements covering meetings of the Cabinet.

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

## **5. Presiding at Meetings of the Cabinet**

5.1 If the Leader is present he/she will preside. In his/her absence, the Deputy Leader will preside. In the absence of both of them, the Leader may nominate another member of the Cabinet to preside but if he/she has made no nomination then a member appointed to do so by those present at the meeting of the Cabinet shall preside.

## **6. How decisions are taken by the Cabinet**

6.1 Decisions by the Cabinet will be taken by a majority of those present and voting at a meeting convened in accordance with the Access to Information Rules in Appendix 5 of the Constitution.

## **7. Rights of attendance at Meetings of the Cabinet**

7.1 Any person entitled to do so by the Access to Information Rules in Appendix 5 of this Constitution may attend a Cabinet meeting.

7.2 A member of the public entitled to attend a Cabinet meeting may participate in accordance with and subject to the Procedural Standing Orders of the Council relating to public participation as adopted by the Cabinet, subject to the overall discretion of the person chairing the meeting of Cabinet.

7.3 A Councillor will be notified of any item of business before the Cabinet which is considered to be of a particular interest to the Councillor representing an electoral division to which that item relates or affects. He/she will be invited to attend the meeting in question, may speak on the item but not vote on it and may also or in the alternative submit written representations.

7.4 A Councillor who has moved or seconded or whose name appears as one of the first three (or in accordance with Procedural Standing Order 20, five) signatories to a Notice of Motion referred to the Cabinet will be entitled to attend the meeting to which the motion has been referred, and speak upon the Motion, but not vote on it.

7.5 The Chairman or Vice-Chairman of the Overview and Scrutiny Performance Board or appropriate Scrutiny Lead Members shall be entitled to attend and speak (but not to vote) at a meeting of the Cabinet when it considers the Overview and Scrutiny Performance Board's reference back of a called-in

decision (pursuant to paragraph 17.12 of Appendix 4 of this Constitution) or any other report of the Overview and Scrutiny Performance Board.

- 7.6 Any other Councillor may in accordance with the Access to Information Rules in Appendix 5 attend meetings of the Cabinet as an observer, and speak at the discretion of the Leader or other Councillor presiding at the meeting.
- 7.7 The Leader or Cabinet may invite any individual (whether or not a member of the Council) to attend a meeting of the Cabinet to assist or advise the Cabinet but such individual shall not be a member of the Cabinet and shall not have any voting rights.
- 7.8 The Chief Officers, Monitoring Officer and/or their nominees are entitled to attend any meeting of the Cabinet.

## **8. Business conducted at Meetings of the Cabinet**

- 8.1 The business of each meeting of the Cabinet will include the following business:
- (a) confirmation of the minutes of the last meeting;
  - (b) declarations of interest (if any);
  - (c) consideration of matters referred to the Cabinet, whether by the Overview and Scrutiny Performance Board or by the Council in accordance with the provisions contained in the Council's Procedural Standing Orders, the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Rules set out in Appendices 2, 4 and 6 of this Constitution;
  - (d) consideration of any reports from the Overview and Scrutiny Performance Board together with any advice from a Cabinet Member with Responsibility on how to respond to the report; and
  - (e) consideration of matters set out in the agenda for the meeting, which shall be indicated in the public notice to that effect as those which are key decisions and those which are not in accordance with the Access to Information rules set out in Appendix 5 of this Constitution.
- 8.2 No item of business whose sole purpose is to give news and information to members shall be submitted to the Cabinet unless agreed by the Leader.
- 8.3 The relevant Cabinet Member with Responsibility will lead on any item of business within the scope of the relevant area of responsibility.
- 8.4 The Leader or Cabinet may require any Cabinet Member with Responsibility or Chief Officer to report to the Cabinet on any executive function which the Cabinet specifies and which is within the purview of the Leader, Cabinet, that Cabinet Member with Responsibility or Chief Officer.

## 9. **Consultation**

- 9.1 Reports to the Cabinet from any Cabinet Member with Responsibility 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, as relevant, the Overview and Scrutiny Performance Board, and the outcome of that consultation.
- 9.2 Each Cabinet Member with Responsibility may from time to time make arrangements for consultation with persons or bodies who are not members of the Council about any matter within the remit of that Cabinet Member with Responsibility but such consultative or advisory arrangements shall not give rise to any delegated powers being vested in any person or body so consulted or asked to advise.
- 9.3 Reports about other matters will set out the details and outcome of consultation as appropriate.

## 10. **Setting the Cabinet agenda**

- 10.1 The Leader after consultation with the Chief Executive and Assistant Director for Legal and Governance will decide upon the agenda for the meetings of the Cabinet having regard to the provisions of Paragraph 8.1. The Assistant Director for Legal and Governance will comply with the Leader's requests in this respect.
- 10.2 Subject to the provisions of the Access to Information Rules (Appendix 5), any member of the Cabinet or Chief Officer may request the Leader to arrange for an item to be placed on the agenda of the next available meeting of the Cabinet for consideration, but subject to paragraph 10.4 nothing shall require the Leader to agree to any such request.
- 10.3 Subject to the provisions of the Access to Information Rules (Appendix 5), an item will be placed on the agenda of the next available meeting of the Cabinet where the Overview and Scrutiny Performance Board or the full Council has resolved that an item be considered by the Cabinet subject to any alternative timescale indicated in that resolution.
- 10.4 The Head of Paid Service, Monitoring Officer and/or the Chief Financial Officer may require The Assistant Director for Legal and Governance to include an item for consideration on the agenda of a Cabinet meeting in pursuance of their statutory duties. 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 an earlier meeting be convened at which the matter will be considered.

## 11 **Development by the Council**

- 11.1 Where the Cabinet or an officer (the proposer) is required by law to make an application for planning permission to the Council itself the following provisions shall apply:-

- (a) the proposer shall at the time of the passing by the Cabinet of any resolution it is required by law to pass to seek such consent, approval permission or similar decision (or any decision by an officer on its behalf under delegated powers) cause any appropriate application to be made and sufficient plans and particulars to be sent to the senior officer responsible for planning;
- (b) (i) The Assistant Director for Legal and Governance or the senior officer responsible for planning shall arrange for the publication, or service, of any advertisements and notices required by law;
- (ii) the senior officer responsible for planning shall carry out all necessary consultations (whether required by law or not) and shall make a report in writing to the Planning and Regulatory Committee giving at least:-
  - (aa) details of the plans and other particulars; and
  - (bb) details of any representations received; and
  - (cc) the advice of the senior officer responsible for planning.
- (c) the Planning and Regulatory Committee shall advise the proposer whether planning permission is granted or not and may grant planning permission subject to specific conditions;

Provided, however, that nothing in the procedure contained in this Rule shall prevent the Planning and Regulatory Committee delegating all or any of its functions under this provision (either generally, or in a particular class or classes of proposal, or in relation to a particular proposal) to the senior officer responsible for planning.

- 11.2 The foregoing procedure shall also apply to any proposal in respect of which the Council, the Cabinet or Officer, are required by law to make an application to a Local Planning Authority or to the Secretary of State for any such consent, approval, permission or similar decision and shall be followed before the application is made.

# **OVERVIEW AND SCRUTINY PROCEDURE RULES**

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## **APPENDIX 4 - OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1. Arrangements for Overview and Scrutiny**

1.1 The Council's Overview and Scrutiny arrangements will comprise an Overview and Scrutiny Performance Board, a Health Overview and Scrutiny Committee and four Overview and Scrutiny Panels as set out in Appendix 1 (all of which are committees of the Council):-

- Adult Care and Well-Being Overview and Scrutiny Panel
- Children and Families Overview and Scrutiny Panel
- Corporate and Communities Overview and Scrutiny Panel
- Economy and Environment Overview and Scrutiny Panel

1.2 Additionally, the Overview and Scrutiny Performance Board may also establish specific Scrutiny Task Groups to conduct Scrutinies identified by it or to carry out any other specific role or function within the remit of the Overview and Scrutiny Performance Board.

1.3 The Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panels and Scrutiny Task Groups do not have the power to take any executive decisions on behalf of the Council.

1.4 The Health Overview and Scrutiny Committee will have regard to guidance produced by the Department of Health.

### **2. Terms of Reference**

The Scheme of Assignment of Responsibility for Functions (Appendix 1) sets out the scope, role and functions of the Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee, Overview and Scrutiny Panels.

### **3. Membership**

3.1 Subject to the following provisions all Councillors, except members of the Cabinet, may be members of the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panels or a Scrutiny Task Group.

3.2 Subject to Council deciding otherwise, the Overview and Scrutiny Performance Board comprises a Chairman together with a Vice-Chairman and other County Councillors who will all be designated as Scrutiny Lead Members appointed by the Council. One of them will be the Chairman of the Health Overview and Scrutiny Committee and four of them will chair and lead the work of the Overview and Scrutiny Panels. Places on the Board will be allocated in accordance with the political balance of the Council. All members of the Board will therefore be appointed by Council.

3.3 The Health Overview and Scrutiny Committee will comprise County Councillors as decided by Council and one Councillor from each District Council in Worcestershire, who

will be entitled to vote. County Council places on the Committee will be allocated in accordance with the political balance of the Council.

3.4 Each of the Overview and Scrutiny Panels will comprise the number of members as determined by Council and places will be allocated in accordance with the political balance of the Council.

3.5 The size of any Scrutiny Task Group will vary according to the purpose for which it is established and its membership shall be agreed by the Overview and Scrutiny Performance Board in consultation with the Leaders of the political groups. Places on Scrutiny Task Groups need not be allocated strictly in accordance with the political balance of the Council. Instead the principle of proportionality will be applied more flexibly to enable members with a particular knowledge or interest or commitment to take part in a particular scrutiny task.

3.6 There shall be no substitution on the Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee, an Overview and Scrutiny Panel or any Scrutiny Task Group.

3.7 No member may be involved in scrutinising a decision with which he/she has been directly involved or if he/she has an interest which would require withdrawal as defined by the Members' Code of Conduct.

#### **4. Non-Councillor Co-optees**

4.1 The Overview and Scrutiny Performance Board will co-opt one Church of England and one Roman Catholic Diocese representative and two parent governor voting representatives (as elected) when dealing wholly or in part with an education matter such as a report from an Overview and Scrutiny Panel or Scrutiny Task Group.

4.2 An Overview and Scrutiny Panel or Scrutiny Task Group when dealing wholly or in part with educational matters will co-opt those representatives in 4.1 above.

4.3 The Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or Scrutiny Task Group may include other non-councillor co-opted persons in a non-voting capacity.

#### **5. Meetings**

5.1 The Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee and Overview and Scrutiny Panels will conduct their proceedings in accordance with those Procedural Standing Orders (Appendix 2) as apply to them and in accordance with these Overview and Scrutiny Procedure Rules. They will meet as often as is required to carry out their functions and Work Programme, but without prejudice to the calling of a meeting in accordance with the provisions of the Procedural Standing Orders, if required.

5.2 Scrutiny Task Groups will not be established as Committees of the Council for the purposes for the Council's Procedural Standing Orders or Access to Information Rules but will conduct their proceedings in accordance with those Overview and Scrutiny

Procedure Rules as apply to them. They will conduct their business in such ways that are effective, efficient and appropriate to the tasks they are carrying out and will, whenever possible, conduct their business in an open and transparent way and engage the public as fully as may be appropriate.

5.3 The Assistant Director for Legal and Governance is responsible for summoning meetings of Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee and Overview and Scrutiny Panels through circulating the Agenda and papers and recording the proceedings of those meetings. The Assistant Director for Legal and Governance is also responsible for summoning meetings of a Scrutiny Task Group, compiling such papers as are necessary, recording proceedings in the most appropriate manner and preparing any reports from a Scrutiny Task Group.

## **6. Quorum**

6.1 The quorum for meetings of the Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee and Overview and Scrutiny Panels shall be one quarter of its voting membership, provided that in no case shall the quorum be less than three.

## **7. Chairing**

7.1 Subject to 7.3 and 7.4, the Chairmen and Vice-Chairmen of the Overview and Scrutiny Performance Board, the Health and Overview Scrutiny Committee and Overview and Scrutiny Panels will be appointed by the County Council from amongst the Members appointed to serve on the respective bodies.

7.2 Other Scrutiny Lead Members serving on the Overview and Scrutiny Performance Board will be similarly appointed by Council.

7.3 The Chairman of the Overview and Scrutiny Performance Board will not be a member of a political group forming part of the ruling administration but will not hold the position of Group Leader of any group on the Council.

7.4 The position of Vice-Chairman of the Health Overview and Scrutiny Committee will be held by one of the District Council Representatives serving on the Committee and nominated by those District Council Representatives and agreed by Council.

7.5 Any Scrutiny Task Group established by the Overview and Scrutiny Performance Board will be led by an identified member of the Board and he/she will chair any meetings and lead the work of the Group. The Chairman of the Overview and Scrutiny Performance Board is not expected to lead a Scrutiny Task Group carrying out in-depth Scrutiny (but may lead a Scrutiny Task Group carrying out any other specific role or function within the remit of the Overview and Scrutiny Performance Board).

## **8. Work programme**

8.1 The Overview and Scrutiny Performance Board will develop a Scrutiny Work Programme, the outline of which will be approved by the County Council. In so doing it will take into account views, requests, and referrals from:

- a) all County Councillors
- b) an Overview and Scrutiny Panel
- c) the Cabinet
- d) officers
- e) any co-opted members
- f) any external bodies, partners or stakeholders
- g) Citizens

8.2 Any member of the Overview and Scrutiny Performance Board can require the Board to place for discussion a relevant matter on the agenda of a meeting of the Board. Any such request will be included on the next available Overview and Scrutiny Performance Board agenda.

8.3 Any member of the Council may request the Board to consider a local government matter relevant to the functions of the Board (and is not an 'excluded matter') or consider a Councillor Call for Action. Any such request will be included on the next available Overview and Scrutiny Board agenda. 'Excluded matters' are defined in legislation as any matters relating to a planning/licensing decision/person who has a right of review or appeal (unless the allegation is systemic failure in discharging functions), or is vexatious, discriminatory or not reasonable to be included on the agenda or discussed.

8.4 In considering a request for a Councillor Call for Action referred to in 8.3 the Board will consider whether:-

- sufficient information has been supplied
- the matter falls under those excluded matters prescribed by legislation
- the Councillor Call for Action is, or has stemmed from a vexatious complaint
- the matter is the subject of an ombudsman complaint or other official complaints procedure
- more could be done to resolve the issue at a local level
- the matter has recently been examined by Scrutiny

8.5 If the Overview and Scrutiny Performance Board decides that the Councillor Call for Action request should be progressed it must then be considered in detail within 6 weeks. It is open to the Board to deal with the matter itself or to commission an Overview and Scrutiny Panel or Scrutiny Task Group to investigate the request on its behalf.

8.6 The Overview and Scrutiny Performance Board will establish criteria against which it will select the topics to form the Scrutiny Work Programme. The County Council will approve an Annual Scrutiny Work Programme outline.

8.7 The Scrutiny Work Programme will:

- a) meet the criteria for chosen topics
- b) be balanced – in terms of some being of longer duration and some being suitable for shorter study

- c) be mixed – in terms of covering different topics/directorates
- d) be not so onerous that there is no flexibility and room left for smaller, additional item(s), such as Call-ins, to be added in at a later time if the Overview and Scrutiny Performance Board regards it as a priority, and
- e) take into consideration the resources available to support Scrutiny

8.8 The Overview and Scrutiny Performance Board will agree the terms of reference of each Scrutiny to be carried out by an Overview and Scrutiny Panel or Scrutiny Task Group and will consider the reports of an Overview and Scrutiny Panel or Scrutiny Task Group prior to its formal publication.

8.9 The Overview and Scrutiny Performance Board or an Overview and Scrutiny Panel may periodically invite Cabinet Members or Chief Officers to discuss with it any particular issue of concern.

8.10 The Overview and Scrutiny Performance Board has been designated by the Council as its statutory Crime and Disorder Scrutiny Committee and will take responsibility for the consideration of Crime and Disorder matters. As part of this responsibility, the Board will seek to meet on an annual basis Crime and Disorder partners, which may include the Police and the representative of the West Mercia Police and Crime Panel, to discuss issues of mutual interest.

8.11 In terms of considering specific Crime and Disorder issues (including Councillors' Calls for Action) it is open to the Board to deal with the matter itself or to commission an Overview and Scrutiny Panel or Scrutiny Task Group to investigate the request on its behalf.

8.12 The Economy and Environment Overview and Scrutiny Panel will review and scrutinise the Council's flood risk management functions which may affect the local authority's area, as set out in the Flood and Water Management Act 2013.

8.13 The Health Overview and Scrutiny Committee will produce an outline Annual Overview and Scrutiny Work Programme that has been discussed and shared with local health bodies and with Healthwatch Worcestershire. In developing its Annual Overview and Scrutiny Work Programme it will build in a capacity to respond to consultations.

## **9. Policy Review and Development**

9.1 The role of the Overview and Scrutiny Performance Board in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules (Appendix 6 of this Constitution).

9.2 In relation to the development of the Council's approach to other matters of policy not forming part of its Budget and Policy Framework, the Overview and Scrutiny Performance Board (or an Overview and Scrutiny Panel expressly authorised by the Board) may make proposals to the Cabinet for the development of policy. Such 'pre-policy' work is an important part of the Overview and Scrutiny function and such proposals will be considered by the Cabinet.

9.3 The Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee, an Overview and Scrutiny Panel and a Scrutiny Task Group will have the

right to invite a Cabinet Member with Responsibility to attend for discussion of policy development or review of policy within the scope of that Cabinet member.

## 10. Reports

10.1 Once it has formed views or recommendations on matters which it has considered and dealt with itself the Overview and Scrutiny Performance Board will prepare a report and will give the Cabinet Member with Responsibility (CMR) and the Chief Officer an opportunity to see a draft report, as appropriate, in order to allow them to comment on emerging themes and recommendations. The CMR and Chief Officer will be entitled to attend the meeting of the Overview and Scrutiny Performance Board at which the final report is considered.

10.2 Once it has formed views and recommendations on matters which it has considered an Overview and Scrutiny Panel or Scrutiny Task Group will prepare a report and will give the CMR and the Chief Officer an opportunity to see a draft report in order to allow them to comment on emerging themes and recommendations. An Overview and Scrutiny Panel or Scrutiny Task Group will submit its report for approval by the Overview and Scrutiny Performance Board unless a Panel has been specially authorised by the Board to report directly to the Cabinet. The CMR and Chief Officer will be entitled to attend the meeting of the Overview and Scrutiny Performance Board at which the Panel or Group's report is considered.

10.3 Such a report shall include:-

- an explanation of the issue addressed
- a summary of the evidence considered
- any recommendations on matters considered

10.4 If the Overview and Scrutiny Performance Board or an Overview and Scrutiny Panel cannot agree on a single final report then up to one minority report may be prepared and submitted for consideration with the majority report.

10.5 All reports submitted to the Overview and Scrutiny Performance Board or Overview and Scrutiny Panel for approval shall be made public, subject to the provision of the Access to Information Rules.

10.6 Once the Overview and Scrutiny Performance Board has approved a final report it will submit it to the Assistant Director for Legal and Governance for consideration by the Cabinet or the Council as appropriate.

10.7 Where appropriate, Scrutiny Reports reflecting in-depth studies should form the basis of major Council debates before the reports are referred to the Cabinet. As part of its consideration of any report the Overview and Scrutiny Performance Board shall form a view as to whether it would wish to refer a matter for discussion at Council prior to consideration by Cabinet.

10.8 The Council or Cabinet shall so far as is reasonably practicable consider the final report of the Overview and Scrutiny Performance Board within two months of it being submitted to the Assistant Director for Legal and Governance subject to the provisions of paragraph 10.7 above.

10.9 The Chairman, Vice-Chairman or other designated member of an Overview and Scrutiny Panel or a Scrutiny lead member of a Scrutiny Task Group will present its report to the Overview and Scrutiny Performance Board. The Chairman or Vice-Chairman of the Board, the relevant Overview and Scrutiny Panel or relevant Scrutiny Lead Member of the Overview and Scrutiny Performance Board will present the final report to the Cabinet and/or Council as appropriate and may be questioned on it.

10.10 An Overview and Scrutiny Panel or Scrutiny Task Group may submit interim reports to the Overview and Scrutiny Performance Board and the Board may submit an interim report to the Cabinet.

10.11 The Health Overview and Scrutiny Committee may make reports and recommendations to local NHS bodies on any matter reviewed or scrutinised. In doing so, their report shall include:-

- an explanation of the issue addressed
- a summary of the evidence considered
- any recommendations on matters considered

10.12 The Overview and Scrutiny Performance Board will submit an annual report to the Council reviewing the work undertaken against the outline programme approved by the Council.

## **11. Making sure that reports are considered by the Cabinet or the appropriate body**

11.1 Once the Overview and Scrutiny Performance Board has approved a final report it will forward a copy to the Assistant Director for Legal and Governance who will allocate it, as appropriate, to the Cabinet and/or the Council.

11.2 If the Assistant Director for Legal and Governance considers that the contents of the report would have implications for the Council's Budget and Policy Framework and refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Cabinet will normally have 2 months in which to respond to the report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from the Overview and Scrutiny Performance Board on a matter which would impact on the Budget and Policy Framework, it shall also consider the response of the Cabinet to the Board's proposals.

11.3 If in any case the Cabinet does not consider a report normally within two months then the matter will be referred to Council and the Council will consider the report and make a recommendation to the Cabinet, if it is an executive function.

11.4 Without prejudice to paragraphs 11.1, 11.2 and 11.3 the Assistant Director for Legal and Governance may also refer any report of major in-depth studies relating to an executive function to the Council for debate prior to consideration by the Cabinet.

11.5 In considering the period within which the Cabinet is expected to consider a report, the Assistant Director for Legal and Governance shall have regard to giving the Cabinet

Member with Responsibility the opportunity to prepare his/her report to the Cabinet advising it on how to respond to the report.

11.6 The Overview and Scrutiny Performance Board will in any event 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 Performance Board, the Board will nonetheless be able to respond in the course of any Cabinet consultation process in relation to any key decision, and may comment upon the issue.

11.7 Reports from the Health Overview and Scrutiny Committee will be submitted to the appropriate body (which may include the Cabinet and/or Council).

11.8 Once the Health Overview and Scrutiny Committee has completed a Scrutiny exercise and produced its report, and where it has requested a response from the NHS body to which it has reported, the NHS body concerned shall respond to the request within 28 days.

11.9 The written response from NHS bodies should set out:-

- the views of the body on the recommendations
- proposed action in response to the recommendations
- any reasons for inaction to the recommendations made

11.10 If the NHS body is unable to provide a comprehensive response to the recommendations made within 28 days, it may negotiate with the Committee to produce an interim response. This interim response should include details of when the final report would be produced.

## **12. Health Scrutiny consultations**

12.1 Each local NHS Body has a duty to consult the Health Overview and Scrutiny Committee on any proposals it may have under consideration for any substantial development of the health service in the area of the Committee's local authorities, or on any proposal to make a substantial variation in the provision of such service(s).

12.2 In instances where the Health Overview and Scrutiny Committee considers that another authority would be better placed to consider a particular local priority it may delegate the function to that authority, provided that authority agrees to exercise the function.

12.3 Where delegation takes place, the full powers of overview and scrutiny of health services are given to the delegated committee but only in relation to the specific delegated function and provided the County Council's strategic policies and budget provisions are adhered to.

## **13. Rights of Scrutiny members to documents**

13.1 In addition to their rights as councillors, members of the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny

Panels and any Scrutiny Task Groups have the additional right to documents and to notice of meetings as set out in the Cabinet Procedure Rules (Appendix 3), in the Access to Information Rules (Appendix 5).

13.2 Nothing in this paragraph prevents more detailed informal liaison between the Cabinet and the Overview and Scrutiny Performance Board as appropriate depending on the particular matter under consideration.

#### **14. Accountability of Members or officers**

14.1 Subject to paragraph 14.3 below, the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or a Scrutiny Task Group may scrutinise and review decisions made by the Cabinet or individual Cabinet Members, or actions taken by/or on behalf of the Cabinet or Council and may scrutinise and review the performance of the Council and Cabinet in relation to policy objectives, performance targets and/or particular service areas. As well as reviewing documentation, in fulfilling the Scrutiny role it may require the Leader, any Cabinet Member with Responsibility, any member in respect of functions exercisable by that member under section 236 of the Local Government and Public Involvement in Health Act (e.g. Worcestershire Councillors' Divisional Fund), Chief Officers 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

It is the duty of those persons to attend if so required. However, in exceptional circumstances, if the member or officer is unable to attend on the required date, then the Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee, an Overview and Scrutiny Panel or Scrutiny Task Group shall in consultation with the member or officer arrange an alternative date for attendance to take place within a reasonable period.

14.2 Where any member or officer is required to attend the Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee, an Overview and Scrutiny Panel or Scrutiny Task Group under paragraph 14.1 the Chairman or Scrutiny Lead Member will arrange for the member or officer to be informed in writing giving notice of the nature of the item (with reasons) on which he/she is required to attend to give account and giving sufficient notice having regard to whether or not the production of any documentation or report is required.

14.3 (a) The Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee, an Overview and Scrutiny Panel or Scrutiny Task Group, may not scrutinise an action taken by a Chief Officer under delegated powers which is in the furtherance of day to day administration of the service for which the Chief Officer is responsible;

(b) For the purposes of paragraph 14.1 above the term 'senior officer' means any officer who is employed upon the Conditions of Service of the JNC for Chief Officers.

14.4 When requiring the attendance of an officer from a local NHS body, the Chairman of the Health Overview and Scrutiny Committee will arrange for such a request to be made in writing to the Chief Executive of the body concerned giving notice of the nature of the item (with reasons) on which attendance is required to give account and giving sufficient notice having regard to whether or not the production of any documentation or report is required.

## **15. Attendance by others**

15.1 A Councillor will be notified of any item of business before Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee, an Overview and Scrutiny Panel or Scrutiny Task Group, which is considered to be of a particular interest to the Councillor representing an electoral division to which that item relates or affects. He/she will be invited to attend any meeting in question, may speak on the item but not vote, and may submit written representations.

15.2 The Overview and Scrutiny Performance Board, the Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or Scrutiny Task Group may invite staff and people other than those referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, partners, stakeholders, members and officers in other parts of the public sector, experts and witnesses and shall invite such people to attend.

15.3 When requiring the attendance of an officer from another Public Service Provider, the Chairman of the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or Scrutiny Task Group, the chairman of the relevant Committee, Panel or Task Group will arrange for such a request to be made in writing to the Chief Executive of the body concerned giving notice of the nature of the item (with reason) on which attendance is required to give account and giving sufficient notice having regard to whether or not the production of any documentation or report is required.

## **16. Key decisions**

16.1 The Overview and Scrutiny Performance Board may require the Cabinet in relation to key decisions to submit, in certain circumstances, a report to the Council (as set out in Paragraph 17 of the Access to Information Rules).

## **17. Call-in**

17.1 Call-in should only be used in exceptional circumstances and will normally be invoked only when there is evidence to suggest that the Cabinet (or individual CMR if so delegated) has departed from the principles for decision making (as set out in Article 7) and a decision has been made and not yet implemented. The operation of Call-in will be monitored annually and the Council may change the arrangements if they are being abused.

17.2 Any recommendations of the Cabinet or CMR to the Council which relate to Policy Framework and budget matters are not subject to the Call-in procedure.

17.3 When a decision is made by the Cabinet (or individual CMR) the decision shall be recorded and published (in either the Minutes of the Cabinet meeting at which the decision was taken or the Record of Decision of the Cabinet meeting or CMR) and shall be available at County Hall, Worcester normally within three working days of the decision being made. All Councillors will be sent an electronic link to the Minutes (or Record of Decision) at that time electronically.

17.4 The Minutes of the Cabinet meeting (or Record of Decision of Cabinet or CMR) in question will bear the date on which they are published under paragraph 17.3 and will specify if paragraph 17.16 applies. If it does not, the decision may then be implemented on the fifth working day after the publication of the decision (counting from the Record of Decision or Minutes, whichever is published earliest) unless it is called-in under paragraph 17.5. If paragraph 17.16 does apply, the decision may be implemented immediately upon its making.

17.5 Subject to paragraph 17.16, before the commencement of the fifth working day after the publication of the decision referred to in 17.4, no fewer than 2 members of the Overview and Scrutiny Performance Board or no fewer than 8 members who are not members of the Cabinet may signify in writing to the Assistant Director for Legal and Governance their wish for a decision to be called in. Such request must be accompanied by an explanation of reasons for calling in the decision. If a decision is validly called-in, then it cannot be implemented until the conclusion of the Call-in process as set out in these Rules.

17.6 The Overview and Scrutiny Performance Board may deal with the Call-in itself, refer it to one of its Overview and Scrutiny Panels or establish a Scrutiny Task Group to do so. This decision may be made by the Chairman and Vice-Chairman of the Overview and Scrutiny Performance Board, or by the Board itself. If the matter is referred to an Overview and Scrutiny Panel or a Scrutiny Task Group, a report containing the findings and any recommendations will be submitted to the Overview and Scrutiny Performance Board for approval.

17.7 Decisions called-in will be placed on the agenda of the next available meeting of the appropriate body. If necessary, an earlier meeting can be called by the Assistant Director for Legal and Governance in consultation with the Chairman and the relevant CMR. Given the potential delay and consequential disadvantage for the council or the public, Call-ins need to be dealt with promptly.

17.8 Having considered the decision called-in, the Overview and Scrutiny Performance Board will:

- a) accept the decision without qualification or comment (in which case it can be implemented immediately without being considered again by the Cabinet or CMR); or
- b) accept the decision (in which case it can be implemented immediately without being considered again by Cabinet or Cabinet Member) but with qualification or comment which the relevant CMR must consider and respond to; or
- c) propose modifications to the decision or require a reconsideration of the decision (in which case the implementation of the decision is delayed until the Cabinet or CMR has received and considered a report of the Overview and Scrutiny Performance Board); or

- d) in exceptional circumstances ask the Council to consider whether option (a) (b) or (c) is appropriate (in which case the implementation is delayed until after the meeting of the Council to which it has been referred and, if Council resolves option (c), the Cabinet or CMR has reconsidered the matter having regard to the Council's view)

(The Council has no power to make final decisions in respect of matters which are the responsibility of the executive).

17.9 Such exceptional circumstances (in paragraph 17.8(d)) may be if the decision called-in is one which the Overview and Scrutiny Performance Board believes is one which

- a) the Cabinet or CMR cannot in law take; or
- b) is reserved for the County Council; or
- c) raises issues of such exceptional significance and public interest to justify reference to the County Council, although the final decision will rest with the Cabinet or CMR; or
- d) is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget

17.10 The first 3 members exercising the right of Call-in and who are not either local members or members of the Overview and Scrutiny Performance Board, an Overview and Scrutiny Panel or Scrutiny Task Group established to consider a Call-in, are entitled to attend any meeting of that Overview and Scrutiny Performance Board, Overview and Scrutiny Panel or Scrutiny Task Group respectively considering the Call-in and to speak but not vote.

17.11 The Overview and Scrutiny Performance Board, Overview and Scrutiny Panel or Scrutiny Task Group will require the relevant CMR or other member of the Cabinet, if appropriate, to attend any meeting and explain the decision taken by the Cabinet or CMR.

17.12 (a) Any report of the Overview and Scrutiny Performance Board or Council pursuant to paragraph 17.8(c) (containing reasons for its views) will be submitted to the Cabinet or CMR, which or who will consider the views of the Overview and Scrutiny Performance Board or Council and either:

- (i) confirm the decision without modification; or
- (ii) confirm the decision with modification; or
- (iii) rescind the decision and (if considered appropriate) take a new one

(b) In each case, the reasons must be given, particularly if the action is not as proposed by the Overview and Scrutiny Performance Board or Council

(c) The Cabinet's (or CMR's) decision taken following consideration of the views of the Overview and Scrutiny Performance Board or Council is final and will be published by the Assistant Director for Legal and Governance

(d) The Chairman or Vice-Chairman of the Overview and Scrutiny Performance Board may attend a meeting of the Cabinet at which the Board's views are being considered and may speak but not vote.

17.13 The Call-in procedure shall apply only once in relation to a particular decision or series of related decisions on the same matter giving rise to the Call-in.

17.14 These Call-in provisions are not applicable in respect of decisions taken by local NHS bodies.

17.15 Each local NHS body has a duty to consult the Health Overview and Scrutiny Committee on any proposals it may have under consideration for any substantial development of the health service in the area of the Committee's local authority, or on any proposal to make any substantial variation in the provision of such service(s). This is additional to the discussions that NHS bodies will have with the Council, as distinct from the Health Overview and Scrutiny Committee, about service developments, especially where they link to services provided or commissioned by the local authority. The Health and Overview Scrutiny Committee may in certain circumstances prescribed by Regulations report to the Secretary of State in writing who may require the local NHS body concerned to carry out such consultation, or such further consultation, with the Committee as he/she considers appropriate.

#### **17.16 Call-in of urgent decisions**

- a) On rare occasions, decisions will need to be implemented so urgently that pre-implementation review (Call-in) is not appropriate.
- b) A decision will be urgent if any delay likely to be caused by the Call-in process would seriously prejudice the interest of the County Council or of the public or the interests of any person (including a corporate entity) to whom the decision relates.
- c) The record of the decision and notice by which it is made public must contain an explanation as to why the decision needs to be treated with such urgency.
- d) The Chairman (or Vice-Chairman in his/her absence) of the Overview and Scrutiny Performance Board must agree that the decision is urgent and cannot reasonably be deferred, in which case it can be implemented immediately. If either the Chairman (or in his/her absence, the Vice-Chairman) of the Overview and Scrutiny Performance Board is unwilling or unable to act, then the agreement of the Chairman (or in his/her absence, the Vice-Chairman) of the Council will suffice.
- e) Where these circumstances arise at least 2 members of the Overview and Scrutiny Performance Board or 8 members who are not members of the Cabinet may signify in writing to the Assistant Director for Legal and Governance their wish for a post-implementation review of the decision. Reasons must be given.
- f) In these circumstances, Call-in has no effect on the implementation of the urgent decision and relates to reviewing the nature of the decision and the circumstances behind it. The outcome of the Overview and Scrutiny Performance Board's consideration will be reported to the Cabinet.

#### **17.17 Call-in of decisions outside the Budget and Policy Framework**

These provisions are set out in the Budget and Policy Framework Rules.

## **18. The Party Whip**

18.1 When considering any matter in respect of which a member of the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or Scrutiny Task Group is subject to any instruction given by or on behalf of a political group of which he/she is a member as to how he/she shall speak or vote (or refrain from doing so) on that matter (or the application or threat to apply any sanction in respect of him/her should he/she fail to comply with that instruction) (“a party whip”), the member must declare the existence of a party whip, and the nature of it, before the commencement of the Committees’ deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be included in the minutes of the meeting or other appropriate record.

## **19. Proceedings**

19.1 The Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee and Overview and Scrutiny Panel will consider any business required to be conducted in pursuance of the Council’s Procedural Standing Orders (Appendix 2), the Access to Information Rules (Appendix 5) and these Overview and Scrutiny Procedure Rules (Appendix 4) and any other business otherwise set out on the agenda.

19.2 A Scrutiny Task Group will decide upon the most appropriate means of conducting its business in pursuance of the terms of reference agreed by the Overview and Scrutiny Performance Board but will at all times strive to do so in an open and transparent way.

19.3 In conducting their business, the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or a Scrutiny Task Group may:

- a) carry out in-depth analysis of policy issues
- b) receive briefings and presentations on issues under consideration
- c) conduct research, community and other consultation particularly in the analysis of policy issues and possible options
- d) consider and implement mechanisms to encourage and enhance community participation in the development of policy options
- e) hold enquiries and investigations, hold workshops and undertake site visits, conduct public surveys and hold public meetings
- f) invite advisers and assessors to assist them
- g) question members of the Cabinet and Chief Officers about their views on issues and proposals affecting the County Council’s area or 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
- h) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working
- i) as part of any investigation, review and scrutinise the decisions made by, and performance of, the Cabinet and Chief Officers both in relation to individual decisions and over time
- j) question and gather evidence from any person (with their consent) and invite witnesses

19.4 In the conduct of its proceedings, the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, an Overview and Scrutiny Panel or a Scrutiny Task Group will have regard to the following principles:

- a) whilst the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or a Scrutiny Task Group may conduct its business in a tenacious way, it should do so at all times with respect, equity, fairness, dignity and with regard to the principles of natural justice
- b) all members of the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, an Overview and Scrutiny Panel or a Scrutiny Task Group will be given the opportunity to ask questions of attendees, and to contribute and speak
- c) it will strive to conduct its business in a consensual, open, responsible and transparent way across the political divides and will seek to avoid expressing views based purely on political considerations
- d) its business is to be conducted so as to maximise its efficiency
- e) it will not seek to hold officers and non-councillors accountable for decisions taken as part of member processes
- f) it will recognise that should any question of officer discipline arise, this will be dealt with through the existing procedures for the purpose

## **20. Overview and Scrutiny Guide**

20.1 A guide may be produced from time to time which contains further advice and guidance as to how the provisions of these Rules and any other relevant constitutional provisions may be applied and implemented.

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# **ACCESS TO INFORMATION RULES**

## APPENDIX 5 - ACCESS TO INFORMATION RULES

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## **APPENDIX 5 – ACCESS TO INFORMATION RULES**

### **1. Scope and definitions**

1.1 Unless otherwise indicated, these Rules apply to all formal meetings of the Council, the Cabinet, Committees including Joint Committees, Overview and Scrutiny Performance Board and its Overview and Scrutiny Panels, the Health Overview and Scrutiny Committee, and the Appointments etc. Panel which are together called 'meetings'. These rules do not apply to briefings, working parties, scrutiny task groups, training and development sessions etc.

1.2 Where indicated, certain rules apply only to:

- an 'executive decision-making body' (meaning meetings of the Cabinet, its committees, a joint committee of local authority executives or its subcommittees) or to
- decisions by an 'executive decision-maker' (meaning such a body as above or an individual member making an executive decision such as a Cabinet Member with Responsibility). 'Executive decision' means a decision by an executive decision-maker in connection with the discharge of a function which is the responsibility of the executive.

1.3 'Private meeting' means a meeting of the executive decision-making body during which the public are excluded.

1.4 'Regulations' in relation to executive decisions refer to the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 as amended or replaced.

### **2. Additional rights to information**

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

### **3. Rights to attend meetings**

Members of the public may attend all meetings subject only to the exceptions in these rules or the law allowing them to be excluded i.e. during items of business where confidential or exempt information is likely to be disclosed or to maintain orderly conduct or prevent misbehaviour (see paragraph 10).

#### **4. Notices of meeting**

4.1 The Council will give at least five clear days' notice of the time and place of any meeting by posting details of the meeting at County Hall, Worcester (the designated office) and on its website, unless the meeting is convened at shorter notice in which case such notice will be given from the time that the meeting is convened.

4.2 Paragraph 13 makes provision in respect of private meetings.

#### **5. Access to agenda and reports before the meeting**

5.1 Subject to other provisions in these rules (particularly paragraph 11) or the law, the Council will make available copies of the agenda and reports which are open for public inspection at the designated office and on its website at least five clear days before the meeting.

5.2 If an item is added to the agenda later than as set out in 5.1, the revised agenda will be open to inspection as above from the time the item was added to the agenda. If a report is not available when the agenda is made open to inspection, the report will be open to inspection as set out in 5.3.

5.3 If the meeting is convened at shorter notice than five clear days, or where reports are finalised after the agenda has been published, the Assistant Director for Legal and Governance shall make each such agenda or report available to the public as above as soon as the agenda or report is completed and sent to councillors.

5.4 The Chairman of the meeting may bring before it and cause to be considered an item of business not specified in the summons or agenda where the Chairman is of the opinion, by reason of special circumstances (which shall be specified in the minutes) that the item should be considered at the meeting as a matter of urgency.

5.5 Nothing in these Rules requires a copy of the agenda, items or report to be available for inspection by the public until a copy is available to members of the meeting concerned.

#### **6. Supply of Copies**

6.1 The Council will supply copies of:

- a) any agenda and reports which are open to public inspection;
- b) any further statements or particulars necessary to indicate the nature of the items in the agenda open to the public; and
- c) if the Assistant Director for Legal and Governance thinks fit, copies of any other documents supplied to councillors in connection with such an item and which do not contain exempt or confidential information to any person on payment of a charge for postage, copying and any other costs.

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

## **7. Access to Minutes etc after the Meeting or executive decision**

As soon as is reasonably practicable after a meeting or an executive decision, the Council will make available on its website and for inspection at County Hall copies of the following for six years:

- a) the minutes of the meeting (or written statement/record of decision in accordance with the Regulations) of decisions taken by an executive decision-maker, excluding any part when the meeting was not open to the public or which disclose exempt or confidential information;
- b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- c) the agenda for the meeting; and
- d) reports relating to items considered when the meeting was open to the public.

## **8. Background Papers**

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

When a copy of the whole or part of a report for a meeting is made available for inspection by the public, the Proper Officer (the Chief Officer responsible for the report) will set out in the report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- a) disclose any facts or matters on which the report or an important part of the report is based; and
- b) which have been relied on to a material extent in preparing the report

but this does not include published works or documents which disclose exempt or confidential information (as defined in paragraph 10 below).

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

- a) 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.
- b) In respect of meetings of an executive decision-making body only, at least 1 copy of each of the background papers included in that list must be available for public inspection at County Hall and on the Council's website from the time when copies of the report are made available to the public.

## 9. Summary of Public's Rights

These rules provide a written summary of the public's right to attend meetings to and inspect and copy documents.

### 10. Exclusion of access by the public to meetings

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

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

#### 10.2 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms (however expressed) which forbid its public disclosure or information which cannot be publicly disclosed by virtue of the law or Court Order.

#### 10.3 Exempt information – discretion to exclude public

The public must be excluded from meetings during an item or items of business whenever the meeting resolves to do so on the basis that it is likely in view of the nature of the item of business that 'exempt information' would be disclosed to them, identifying the category of exempt information relied upon

#### 10.4 Meaning of exempt information

Exempt information means information falling within any of the following categories (subject to any qualification or conditions set out) or otherwise defined as such by legislation.

<b>Category</b>	<b>Additional Conditions</b>
1. Information relating to any individual.	
2. Information which is likely to reveal the identity of an individual.	
3. Information relating to the financial or business affairs of any particular person (including the local authority holding that information).	Financial or Business affairs include contemplated, as well as past or current activities.  Information is not exempt if it is required to be registered under: (a) the Companies Act 1985 (b) the Friendly Societies Act 1974 (c) the Friendly Societies Act 1992 (d) the Industrial and Provident Societies Acts 1965 to 1978

	(e) the Building Societies Act 1986 (f) the Charities Act 1993
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 employee of, or office-holders under, the Authority.	'Labour relations matter' is defined in accordance with Schedule 12A of the Local Government Act 1972.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6. Information which reveals that the Authority proposes:  (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or  (b) to make an order or direction under any enactment.	
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	
8. Information which is subject to any obligation of confidentiality.	
9. Information which relates in any way to matters concerning national security.	

### 10.5 Public interest test

Information in categories 1 to 7 in the table above is only exempt 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.

### 10.6 Planning restriction

Information falling within any of categories 1-9 in the table above 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.

## **10.7 Orderly conduct**

The public or a member of the public may be excluded from a particular meeting or part of it in order to maintain orderly conduct or prevent misbehaviour at a meeting.

## **11. Exclusion of Access by the Public to Reports**

If the Assistant Director for Legal and Governance thinks fit, the Council may exclude access by the public to the whole or any part of the report which in his/her opinion relate to items during which, in accordance with paragraph 10 above, the meeting is likely not to be open to the public (a 'private meeting'). Such reports will be marked "not for publication" stating either that it contains confidential information or referring to the category of exempt information likely to be disclosed.

## **12. Application of Rules to the Cabinet, and Key Decisions**

12.1 Paragraphs 13 – 24 only apply to meetings of the Cabinet or other executive decision-making body, or where stated, to executive decisions. If the Cabinet or other executive decision-making body meets to take a 'key decision' then it must also comply with paragraphs 1 – 11 above unless paragraph 15 (general exception) or paragraph 16 (special urgency) apply. It will also normally comply with paragraphs 1-11 if it is meeting to take a decision which is not a key decision.

12.2 A key decision is an executive decision which is likely:

- a) to result in the County 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
- b) to be significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions in the Council's area.

12.3 These rules do not apply to any meeting whose sole purpose is to brief councillors.

## **13. Procedure before taking decisions**

13.1 Key decisions –

Where an executive decision-maker intends to make a key decision, then subject to paragraph 15 (general exception) and paragraph 16 (special urgency), that key decision may not be taken unless:

- a) a notice (usually contained within a Forward Plan) has been published in connection with the matter in question;
- b) at least 28 clear days have elapsed since that notice has been made available for public inspection at County Hall and on the Council's website; and

- c) where the decision is to be taken at a meeting of an executive decision-making body, notice of the meeting has been given in accordance with Paragraph 4 (notice of meetings).

### **13.2 Private meetings of an executive decision-making body**

Where an executive decision-making body intend to hold a private meeting (meaning a meeting or part of a meeting of that body from which the public are excluded in accordance with paragraph 10) then subject to paragraphs 15 and 16:

- a) at least 28 clear days before the private meeting a notice of that intention (usually contained within a Forward Plan) must be made available at County Hall and on the Council's website, including a statement of reasons for the meeting to be held in private;
- b) at least 5 clear days before such a meeting a further notice of that intention must be made similarly available, including a statement of reasons for it to be held in private, should representations be received about why the meeting should be open to the public and a statement of its response to any such representations.

13.3 Where the date by which such a meeting must be held makes compliance with Rule 13.2 impracticable, the meeting may only be held in private where agreement has been obtained that the meeting is urgent and cannot reasonably be deferred from:

- a) the chairman of the relevant overview and scrutiny committee, or
- b) if there is no such person or that chairman is unable to act, the Chairman of the Council, or
- c) in the absence of both, the Vice-Chairman of the Council.

13.4 As soon as reasonably practicable after agreement has been obtained under 13.3, a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred must be made available at County Hall and on the Council's website.

## **14. The Forward Plan**

### **14.1 Period of Forward Plan**

A Forward Plan will be prepared on a rolling basis and will specify Key Decisions anticipated to be taken.

### **14.2 Contents of Forward Plan**

The Forward Plan will provide notice relating to anticipated Key Decisions and will describe the following particulars insofar as the information is available:

- a) the matter in respect of which a Key Decision is to be made;

- b) where it is to be taken by a decision-making body, the name of that body and a list of its members, and where it is to be taken by an individual, his or her name, and title if any;
- c) the date on which, or the period within which, the decision will be made;
- d) a list of the documents submitted to the executive decision-maker for consideration in relation to the matter; and
- e) the address from which available listed documents may be available.

The notice will also state that other relevant documents may be submitted to the executive decision-maker, together with the procedure for requesting details of those documents as they become available.

*[Note - for the sake of transparency, the Forward Plan usually contains matters planned to be decided by Cabinet or CMR which are not key decisions, but the above provisions do not apply to such non-key decisions].*

Where the public may be excluded from the meeting at which a matter is to be discussed, or documents relating to the decision need not be disclosed to the public, particulars of the matter must be included in the Forward Plan but the Plan may not contain exempt or confidential information.

### **14.3 Publication of Forward Plan and notice of key decisions**

The Forward Plan will be published on the Council's website on a rolling basis and copies may be requested from Legal and Democratic Services at County Hall during normal working hours.

## **15. General Exception**

15.1 Where it is impracticable to publish notice under paragraph 13.1 in relation to a 'Key Decision', then subject to paragraph 16 (special urgency), the decision may still be taken if:

- a) the Assistant Director for Legal and Governance has notified the Chairman of the Overview and Scrutiny Performance Board, or if there is no such person, or each member of that Overview and Scrutiny Performance Board by notice in writing of the matter about which the decision is to be made;
- b) a copy of that notice under (a) is made available to the public at County Hall and on the Council's website; and
- c) at least five clear days have elapsed since compliance with (b).

15.2 Where paragraph 15.1 has been complied with, the provisions of 14.2 need not be complied with, but a notice setting out the reasons why compliance with 13.1 is impracticable must be made available at County Hall and on the Council's website as soon as is reasonably practicable.

## **16. Special Urgency**

16.1 Where the date by which a key decision must be made makes compliance with paragraph 15 above (general exception) impracticable, then the key decision can only be taken where the decision-maker obtains the agreement of the chairman of the relevant Overview and Scrutiny Performance Board or if there is no such person or that chairman is unable to act, the Chairman of the Council (or in the absence of both, the Council's Vice-Chairman) that the taking of the decision is urgent and cannot reasonably be deferred.

16.2 As soon as reasonably practicable after agreement has been obtained under 16.1, a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred must be made available at County Hall and published on the Councils' website.

## **17. Report to Council**

### **17.1 When the Overview and Scrutiny Performance Board can require a report**

If the Overview and Scrutiny Performance Board is of the opinion that an executive decision has been made which was a key decision but not treated as such the Board may require the Cabinet (or CMR as appropriate) to submit a report to the Council within such reasonable time as the Board specifies.

### **17.2 Cabinet's report to Council**

The Cabinet (or CMR as appropriate) will prepare a report for submission to Council which must include details of the decision and reasons for it, the details of the decision-maker, and if the Cabinet (or CMR as appropriate) is of the opinion that it was not a key decision, the reasons for that opinion.

## **18. Record of Decisions of the Cabinet or other executive decision-maker**

18.1 As soon as reasonably practicable after an executive decision is made at a meeting of an executive decision-making body or by an individual member, the Assistant Director for Legal and Governance (or officer in respect of his or her decision) will produce a written statement of every such decision.

18.2 That statement (which for an executive decision-making body will normally be done though the production of minutes or record of decision) will include:

- a) a record of the decision and date it was made and by whom;
- b) the reasons for the decision and any alternative options considered and rejected;  
and
- c) a record of any conflict of interest relating to that decision declared by any member of the executive decision-making body or any executive member consulted by the executive decision-maker (together with any note of dispensation provided by the Head of Paid Service relating to that conflict).

18.3 Subject to 18.4, as soon as is reasonably practicable after an executive decision has been made, the Assistant Director for Legal and Governance will make available for inspection by the public at County Hall and on the Council's website the above written statement (and any report or part of a report relevant to the decision and considered by the executive decision-maker). A copy of these documents must be supplied on request to a newspaper on payment of postage, copying and other necessary charge.

18.4 No written statement, report or document will be made available for public inspection which contains confidential information or where disclosure would give rise to the disclosure of exempt information, both as defined above.

18.5 Records and reports required to be available for public inspection under this paragraph must be retained for at least 6 years from the date of the decision.

## **19. Cabinet meetings relating to matters which are not key decisions**

19.1 The Cabinet or other executive decision-making body will also meet to consider matters which are not key decisions. These meetings will also be in public unless the exemptions in paragraph 10.1, 10.3 or 10.7 apply.

## **20. Notice of meetings of the Cabinet**

Members of the Cabinet will be entitled to receive five clear days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

## **21. Attendance of officers at meetings of the Cabinet**

21.1 The Chief Executive, Directors and the Monitoring Officer (and/or their nominees) are entitled to attend any meeting of the Cabinet or other executive decision-making body.

21.2 A private Cabinet meeting may only take place in the presence of the Assistant Director for Legal and Governance or his/her nominee and any other relevant Chief Officer or his/her nominee.

## **22. Key and other decisions by individual members of the Cabinet**

The Leader or Cabinet may authorise individual members of the Cabinet to take Key and/or other executive decisions within any particular remit given from time to time by the Leader or Cabinet. The relevant provisions of these Rules will then apply to executive decisions taken by an individual member of Cabinet as an 'executive decision-maker' but the public will have no right of attendance at the decision-making, and the report will be published on the website as far as practicable at least 5 working days before the anticipated decision, which may be taken later than any date set out in the Forward Plan.

## **23. Additional rights of access to documents for Overview and Scrutiny purposes**

23.1 Subject to paragraph 23.2 below, a member of an overview and scrutiny committee (ie the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, and Overview and Scrutiny Panels) will be entitled to a copy of any document (as defined above) which is in the possession or control of the Cabinet and

- a) contains material relating to any business which has been transacted at a public or private meeting of the Cabinet or executive decision-making body; or
- b) contains material relating to any executive decision made by an individual member of the Cabinet, or officer on behalf of the Cabinet, in accordance with executive arrangements.

That copy document must be provided as soon as reasonably practicable and in any event no later than 10 clear days after the request is received on behalf of the Cabinet.

### **23.2 Limit on rights**

There is no entitlement under 23.1 to:

- a) any document that is in draft form;
- b) any document or part of a document that contains exempt or confidential information unless that information is relevant to:
  - i. an action or decision the scrutiny member is reviewing or scrutinising or
  - ii. any review contained in any programme of work of an overview and scrutiny committee; or
- c) the advice of a political adviser or assistant (if any).

Where it is determined that a member of an overview and scrutiny committee is not entitled to a copy of a document (or part of one), that committee must be provided with a written statement setting out the reasons for that decision.

## **24. Rights of access to documents by Members of the Council**

24.1 A Member is entitled to inspect any document (which means in these rules any report or background paper taken into consideration in relation to an executive decision) which is:

- a) in the possession or under the control of the Cabinet and
- b) contains material relating to any business to be transacted at a public meeting of the Cabinet or decision-making body unless it is in draft form or paragraph 24.4 applies.

24.2 Such documents must be available for inspection by a member:

- a) at least 5 clear days before the meeting (if available), or

- b) from when the meeting is convened if at shorter notice than 5 clear days, or
- c) from when the item is added to the agenda or the document becomes available if that period is less than 5 clear days.

24.3 Any document which contains material relating to:

- a) any business transacted at a private meeting of the decision-making body (i.e. one from which the public have been excluded in accordance with these rules);
- b) a decision of an individual member as executive decision-maker; or
- c) a decision made by an officer on behalf of the Cabinet

must be made available for inspection by any member when the meeting concludes or immediately after the decision is taken and in any event within 24 hours of that conclusion or decision.

24.4 Members have no right to inspect a document which appears to the Assistant Director for Legal and Governance to disclose:

- a) exempt information as defined in paragraph 10.4. However, members can inspect a document if it only discloses information falling within category 3 (information relating to financial or business affairs) except to the extent that the information relates to terms proposed or to be proposed by or to the Council in the course of negotiation for a contract) or category 6 (the giving of statutory notices etc) in paragraph 10.4; or
- b) the advice of a political adviser or assistant (if any).

#### **24.5 Attendance at Cabinet**

Members have no right of attendance at a private meeting of the Cabinet or decision-making body (i.e. one where the press and public have been excluded) nor a right to inspect in advance any document relating to its business other than as set out above, except at the discretion of the Chairman of the meeting.

#### **24.6 Nature of rights**

The rights of a Member are additional to any other right he/she may have. These rules do not authorise or require the disclosure of confidential information in breach of the obligation of confidence.

### **25. Confidentiality**

25.1 Members are provided with any exempt or confidential information in confidence for the performance of their duties as councillors and disclosures to a third party may be a breach of the Members' Code of Conduct and or the law.

25.2 No member of the Council, nor any co-opted member of any Committee, Panel or other member body, or a Scrutiny Task Group, shall without the permission of the Leader or Cabinet (in respect of executive functions) or of Council or the appropriate Committee or Panel (in respect of functions which are not executive functions), disclose any exempt or confidential information unless and to the extent only that that information shall have been properly placed in the public domain by the Council, the Cabinet or the appropriate Committee or Panel.

25.3 Any information treated as exempt or confidential may with the approval of the Leader of the Council (in respect of executive functions) or the relevant Chairman of the Committee, Panel or other member body (in respect of non-executive functions), as the case may be, be released for publicity purposes, whereupon that information shall be considered to have been published in the ordinary course of the Council's business.

## **26. Decisions by local members**

Written records of decisions made or action taken by an individual local member of the Council by virtue of arrangements made under Section 236 of the Local Government and Public Involvement in Health Act 2007 will be published on the Council's website and be open to inspection by the public at County Hall in accordance with the Exercise of Functions by Local Councillors (Written Records) Regulations 2009 as amended from time to time.

*Note – such arrangements have been made for all members in respect of the Worcestershire Councillors' Divisional Fund to improve the well-being of their Division or persons within them.*

## **27. Inspection and supply of documents**

27.1 Any document required to be open to inspection by members of the public must be available for inspection at all reasonable office hours at County Hall, and on the Council's website.

27.2 Background Documents are available for inspection upon payment of a reasonable fee.

27.3 Any person entitled to inspect a document may make a copy of it, or require the Council to supply a copy on payment of postage, copying or other necessary charge for transmission.

27.4 Any member of the public may, in any publicly available medium, reproduce or provide commentary in relation to a document supplied or made available to that person unless doing so infringes copyright (other than that of the Council).

27.5 Where any document open to inspection by the public is supplied to a member of the public or newspaper, the publication thereby of any defamatory matter contained in the document is privileged unless the publication is proved to be with malice.

# **BUDGET AND POLICY FRAMEWORK RULES**

## APPENDIX 6 – BUDGET AND POLICY FRAMEWORK RULES

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## **APPENDIX 6 – BUDGET AND POLICY FRAMEWORK RULES**

### **1. The framework for Cabinet decisions**

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 4 and Appendix 1. It will be the responsibility of the Leader, Cabinet (and Cabinet Members with Responsibility where so delegated) to implement the Budget and policies within the Policy Framework.

### **2. Process for developing the Budget and Policy Framework**

2.1 The Leader and Cabinet will publicise by including in the Forward Plan a timetable for making proposals to the full Council for the adoption of a plan, strategy or budget that is to form part of the Budget and Policy Framework, and its arrangements for consultation after publication of those initial proposals. The Chairman of the Overview and Scrutiny Performance Board will be notified at the same time. The Cabinet will ensure that the consultation process is adequate and allows for meaningful dialogue with those involved. This consultation will include the Overview and Scrutiny Performance Board.

2.2 If the Overview and Scrutiny Performance Board wishes to respond to the Cabinet in the consultation process then it may do so. It is open to the Overview and Scrutiny Performance Board to investigate, research or report in detail with recommendations before the end of the consultation period, or to consider any alternative budget proposals as part of their budget scrutiny work.

2.3 At the end of that consultation period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. The Cabinet will take any response from the Overview and Scrutiny Performance Board into account when drawing up firm proposals for submission to full Council, and its report will reflect the comments made by consultees and the Cabinet's response. The Cabinet's firm proposals will be referred at the earliest practicable opportunity to the Council for decision.

2.4 The Council will consider the proposals of the Cabinet and may decide to adopt them (with or without modification), amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place, subject to the following provisions.

2.5 To ensure that the obligations contained in Section 25 of the Local Government Act 2003 are fulfilled and to allow prior consideration by all Groups, alternative budget, Council Tax proposals, or proposed amendments to the budget recommended on behalf of the executive must be lodged with the Chief Executive by noon 5 working days prior to the meeting scheduled to determine the budget and Council Tax precept (i.e. by the Thursday preceding the Council meeting on Thursday). The Chief Executive will ensure that all such proposals for alternative budget, Council tax precept or amendments to the recommended budget are passed to the Chief Financial Officer and all Group Leaders as soon as practicable after receipt. This provision is without prejudice to the rights of the executive to accept, partially adopt any such proposals or alter its recommendations in the light of them at the budget Council meeting itself, provided the Chief Financial Officer is able to comply with his statutory obligations. The Chairman of Council may

also permit an amendment to be moved which has not met the above requirements if he or she considers there are urgent or exceptional circumstances which justify this.

2.6 Should Council object to the proposals, then before it amends the draft plan or strategy, notice of the Council's decision on the Policy Framework or Budget will be given to the Leader within 2 working days of the decision, setting out any objections which the Council has to the Cabinet's proposals and requiring the executive to reconsider within at least 5 working days of the notice.

2.7 Within the period specified in the Notice the Leader may:

- (a) submit revised proposals with the reasons for any amendments for consideration by the Council; or
- (b) give written notice to the Assistant Director for Legal and Governance of any disagreement with the Council's decision stating the reason for such disagreement.

2.8 Where such revised proposals or such notification are received, the Assistant Director for Legal and Governance shall convene a further meeting of the Council within the necessary timescale to reconsider its decision and the decision shall not be effective pending that meeting. If the Assistant Director for Legal and Governance considers that the matter does not necessitate the calling of an extraordinary Council meeting then the matter will be considered at the next ordinary meeting of the Council. If the Leader does not respond under 2.7 or the Leader has no objection, the Council's decision will take effect forthwith.

2.9 At the further meeting of the Council, the Council's decision will be reconsidered taking into account:

- (a) any revised proposals with the reasons for any amendments, submitted in pursuance of 2.7(a) above; or
- (b) the notice which the Leader has given of any disagreement with reasons in pursuance of 2.7(b) above.

2.10 The Council will, at that meeting, make its final decision on the matter on the basis of a simple majority. The decision shall be made public and shall be implemented immediately.

2.11 The provisions of paragraphs 2.4 and 2.6 – 2.10 shall not apply in relation to any proposals for the budget or precept for the following financial year which are submitted by the Cabinet on or after 8 February in any financial year.

2.12 Paragraphs 5 and 6 relate to the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by or on behalf of the Cabinet. Any other changes to the budget and policy framework are reserved to the Council.

### **3. Decisions outside the Budget or Policy Framework**

3.1 Subject to the provisions of paragraph 5 below (virement), the Cabinet, individual Cabinet members, any officers or joint arrangements discharging executive functions may only take decisions which are in line with the Budget and Policy Framework.

3.2 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 the full Council, then that decision may only be taken by the Council, subject to paragraph 4 below.

3.3 If the Cabinet, individual Cabinet Member, or any officer discharging executive functions, wants to make a decision as in Paragraph 3.2, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. 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 that an officer or individual Cabinet Member wants to make shall be referred to the Cabinet for consideration, subject to the provision in 4.1 for urgent decisions. If the Cabinet wishes to pursue any such decision it shall refer it to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 below (urgent decisions outside the Budget and Policy Framework) shall apply.

### **4. Urgent decisions outside the Budget or Policy Framework**

4.1 The Cabinet, individual Cabinet Member or Officer 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 practicable to convene a quorate meeting of the full Council within an appropriate timescale; and
- (b) if the Chairman (or Vice-Chairman in his/her absence) of the Overview and Scrutiny Performance Board agrees that the decision is a matter of urgency.

In the absence of the Chairman (or Vice-Chairman) of the Overview and Scrutiny Performance Board, the consent of the Chairman of the Council or in his/her absence, the Vice-Chairman will be sufficient.

4.2 The reasons why it is not practicable to convene a quorate meeting of full Council and the above consent of the Chairman (or Vice-Chairman) of the Overview and Scrutiny Performance Board (or of the Council) to the decision being taken as a matter of urgency must be noted on the record of the decision.

4.3 Following the decision, the Cabinet will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **5. Virement**

5.1 Steps taken by the Cabinet, individual Cabinet Member, or any officer, discharging executive functions to implement Council policy shall not exceed the allocated budget for the service in question.

5.2 The Financial Regulations in Appendix 7 of this Constitution set out the rules for the operation of virement across the budgets allocated for particular functions of the Council.

5.3 Virement in excess of the limits from time to time set out in the Financial Regulations shall require the approval of the Council.

## **6. In-year changes to the Budget and Policy Framework**

6.1 The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Cabinet, individual Cabinet Members or officers discharging executive functions must be in line with it.

6.2 No changes to the Budget and Policy Framework may be made by any officer and no such changes may be made by the Cabinet or individual Cabinet Member except those changes:-

- a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- b) which are necessary to ensure compliance with the law, ministerial direction, guidance issued by Government, Government Agency, or the Council's external Auditor;
- c) 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;
- d) which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change;
- e) for which the budget or policy specifically provides for in-year change; or
- f) which are minor adjustments to Directorate cash limits.

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

7.1 Where the Overview and Scrutiny Performance Board has considered a matter called-in in accordance with the Overview and Scrutiny Procedure Rules, and is of the opinion that a decision by or on behalf of the Cabinet or individual Cabinet Member is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Monitoring Officer and/or Chief Financial Officer.

7.2 In respect of a decision taken by or on behalf of the Cabinet or individual Cabinet Member and already implemented, if the Monitoring Officer or the Chief Financial Officer conclude that the decision was outside the Budget or Policy Framework or would be a departure, a report by the relevant Officer shall be made 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 report and to prepare a report to Council. If the Monitoring Officer or the Chief Financial Officer concludes that the decision was not or would not be so outside, they shall report to the Overview and Scrutiny Performance Board.

7.3 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 Financial 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, the Overview and Scrutiny Performance Board may refer the matter to the 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 20 working days of the request by the Overview and Scrutiny Performance Board, unless the Leader of the Council and Chairman of the Overview and Scrutiny Performance Board agree that the matter can be left to the next ordinary meeting of the Council. At the meeting the Council will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer. The Council may:

- (a) endorse a decision or proposal of the Cabinet or individual Cabinet Member as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
- (b) amend the Budget or Policy Framework to encompass the decision or proposal of the Cabinet, individual Cabinet Member or officer discharging executive functions and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
- (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 Council's decision and the advice of either the Monitoring Officer or the Chief Financial Officer.

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# **FINANCIAL REGULATIONS**

## APPENDIX 7 – FINANCIAL REGULATIONS

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## APPENDIX 7 - FINANCIAL REGULATIONS

### Introduction

1. These Regulations are made in pursuance and for the purposes of Section 151 of the Local Government Act 1972, as augmented by the Local Government Finance Act 1988, the Accounts and Audit Regulations 2003 and 2015 and other relevant legislation and regulations as amended or updated from time to time. They form part of the Council's constitution and are to be read in conjunction with the Council's Budget and Policy Framework Rules.
2. The Chief Financial Officer shall be the officer with responsibility for the proper administration of the financial affairs of the Council in accordance with Section 151 of the Local Government Act 1972 and other relevant legislation and regulations.
3. Chief Officers shall be responsible for the operation of the financial procedures within their Directorates. They shall ensure that adequate operational controls are in place. They shall ensure that staff in their Directorate are aware of and comply with Financial Regulations.
4. The Chief Financial Officer shall issue a standard set of Financial Procedures to assist Chief Officers in carrying out their responsibilities. It is open to Chief Officers to propose alternative procedures. The Chief Financial Officer is authorised to agree amendments, provided basic controls are met. Any departure from standard Financial Procedures must be clearly documented.
5. The Chief Financial Officer may, from time to time, issue Accounting Instructions to make further provision for the proper administration of the financial affairs of the Council. Accounting Instructions shall form part of these Regulations.
6. Financial Procedures and Accounting Instructions may make provision for:
  - a) the form and content of any document dealing with financial matters;
  - b) the disclosure of information to the Chief Financial Officer;
  - c) accountancy and financial procedures to be used in relation to particular financial activities; and
  - d) a requirement to consult the Chief Financial Officer on specified issues (being issues relating to the financial affairs of the Council).
7. References in these Regulations to Chief Officers shall be a reference to the following officers of the Council and any other officer authorised to discharge a particular function:

Chief Executive  
Strategic Director for People  
Director of Children, Families and Communities  
Strategic Director for Commercial & Change.  
Strategic Director for Economy and Infrastructure  
Director for Public Health

8. References in these Regulations to the Chief Financial Officer shall be deemed to include a reference to any other officer of the Council authorised or nominated by the Chief Financial Officer, in writing, to undertake any of the functions of the Chief Financial Officer.

### **Best value**

9. Budget holders shall ensure that best value is pursued in the delivery of all services and shall continuously seek improvement in the quality, efficiency and effectiveness of services.

### **Administration**

10. The Chief Financial Officer, as the Council's financial adviser, shall give information and advice as appropriate, with respect to the Council's finances, the financial implications of future policies, plans and programmes, financial performance and the financial aspects of their activities. Chief Officers shall consult the Chief Financial Officer in respect of any such matter before submitting any report to the Council, Cabinet, individual Cabinet Member, Committee, Panel or other member body as set out in the Council's Scheme of Assignment of Responsibility for Functions (Appendix 1).

11. The Chief Financial Officer shall participate in all financial negotiations with Government departments, local or public authorities, except to the extent that the Chief Financial Officer indicates otherwise.

12. The Chief Financial Officer may require to be involved in any matter which appears to the Chief Financial Officer to involve questions relating to the proper administration of the Council's financial affairs.

### **Accounting systems / accounting records**

13. All accounting systems, procedures and supporting accounting records shall be in a form approved by the Chief Financial Officer.

14. The written approval of the Chief Financial Officer shall be required before the implementation of any new systems or procedures for the maintenance of financial records or records of assets and liabilities or any changes to such systems.

15. Chief Officers shall ensure that accounting systems and procedures approved by the Chief Financial Officer are observed.

16. Financial records and records of assets and liabilities shall be retained for such period as the Chief Financial Officer may prescribe.

### **Audit**

17. The Council's responsibilities under the Accounts and Audit Regulations 2015 as amended and updated from time to time are delegated to the Chief Financial Officer.

The Chief Financial Officer shall maintain an adequate and effective system of internal audit (which may be provided by another local authority), which has authority for such purpose:

- a) to enter any land, building, vehicle or plant owned or used by the Council;
- b) to have access at all times to all records, documents or correspondences, including any stored by mechanical, electric or electronic means;
- c) to possess or to take copies of any record, document or correspondence;
- d) to require any information and explanation from any member or officer of the Council; and
- e) to have direct reporting access to the Audit and Governance Committee, in accordance with the Assignment of Responsibility of Functions to the Committee (Appendix 1) or as the Head of Internal Audit deems appropriate.

18. A Chief Officer, or any other member of staff or Member of the County Council, shall immediately inform the Head of Internal Audit of any loss or financial irregularity or suspected irregularity, or of any circumstances which may suggest the possibility of such loss or irregularity, including any affecting cash, stores or other property of the Council. The Chief Financial Officer, having been consulted by the Head of Internal Audit, shall then determine the action to be taken.

### **Budget responsibilities**

19. The Council shall determine an annual budget, which will include the annual revenue budget and the capital programme. The Council will issue a precept. The annual budget shall be allocated to Chief Officers in accordance with the functions delegated. Such allocations shall be cash limited. Following the Council's annual budget decision, together with the determinations made in pursuance of Financial Regulation 21, the Chief Financial Officer shall publish a guide to the deployment of the capital and revenue resources of the County Council.

20. Each Chief Officer identified as being responsible for managing budgets identified in accordance with financial regulation 19 above shall be accountable to the Cabinet for the allocated resources.

21. Chief Officers, in consultation with the Chief Financial Officer, shall determine detailed budgets for the deployment of resources allocated and may incur expenditure on, and shall collect income in respect of, the budgets for which they are accountable. All spending must be on items within the approved Policy Framework and any other approved policy and shall be contained within approved cash limits, except to the extent that the provisions for urgent decisions as set out in the Budget and Policy Framework Rules, allow expenditure which is contrary to or not wholly in accordance with the budget or policy framework.

22. Chief Officers may delegate budgets to officers within their Directorates. Such delegations shall be formal and shall be documented. Delegation of budgets may only be made in a manner which reflects the delegation of management and decision making responsibilities. Notwithstanding this, Chief Officers will remain accountable for the entire budget delegated to them.

23. Chief Officers shall make arrangements to monitor and manage budgets for which they are accountable. The Chief Financial Officer shall monitor the arrangements made by Chief Officers for implementing budgetary control and shall ensure that there are sound systems of budgetary control. The Cabinet shall receive a report, prepared jointly by the relevant Chief Officer and the Chief Financial Officer, commenting on financial performance to date.

24. A proposal of a Chief Officer to re-deploy revenue or capital resources (virement) shall be approved in the following manner:

<b>Approval Level</b>	<b>Value of Proposal £000</b>
Chief Officer(s) jointly with Chief Financial Officer	Up to 200
Chief Officer(s) jointly with Chief Financial Officer and in consultation With the relevant Cabinet Member with Responsibility	Over 200, up to 500
Cabinet	Over 500

25. A proposal to re-deploy revenue or capital resources approved in accordance with Financial Regulation 24 shall be included in the Report on financial performance required to be submitted to each meeting of the Cabinet by virtue of Financial Regulation 23.

26. Any proposal to re-deploy revenue or capital resources approved in accordance with Financial Regulation 24(b) will be reported to the Leader of the Group(s) not forming part of the ruling administration.

27. Chief Officers must inform the Chief Financial Officer, and report to the Cabinet any actual or anticipated shortfall or excess in the allocation of resources to services. The Cabinet shall issue such instructions as may be appropriate in the circumstances.

28. Chief Officers may make arrangements for budget holders to submit proposals for the carry forward from one financial year to the next of up to two percent of budget. The joint approval of the relevant Chief Officer and the Chief Financial Officer shall be required before any such proposal is implemented. No approval shall be granted which would cause any cash limited allocation to be exceeded. School Governing Bodies may carry forward balances in accordance with the Council's scheme for financing Schools.

29. A Chief Officer may submit proposals for the better use of resources between financial years. These may involve under-spending an allocation and carrying forward the balance to the following financial year; or overspending an allocation and deducting the amount overspent from the following year's allocation.

- a) The Chief Financial Officer shall have authority to approve such proposals up to the value of £200,000;

- b) Proposals for an amount exceeding £200,000 shall be recommended to the Cabinet jointly by the Chief Officer and the Chief Financial Officer for determination.

### **Budget preparation**

30. All budgets shall be prepared in accordance with paragraph 2 of the Budget and Policy Framework Rules (Appendix 6) and in accordance with a timetable and format determined by the Chief Financial Officer and published in the Cabinet's Forward Plan of decisions. Budget reports shall be prepared for presentation to the Cabinet in accordance with the following provisions.

31. Each Chief Officer, jointly with the Chief Financial Officer (having consulted with the relevant Cabinet Members with Responsibility) shall report to the Cabinet initial proposals to deploy revenue and capital resources during the following financial year.

32. Each Chief Officer, jointly with the Director of Resources (having consulted with the relevant Cabinet Members with Responsibility) shall report to the Cabinet initial proposals for capital schemes to be included in a draft capital programme covering the medium term for approval by the Council. No schemes shall be proposed unless they are in accordance with Council's Capital Investment Strategy.

33. The Cabinet will consider a report on the Council's financial circumstances and will consult on its initial proposals including with the Overview and Scrutiny Performance Board and will take into account comments made in drawing up firm proposals to the Council, including the level of the precept to be set for the following financial year.

### **Procurement of works, goods, materials and services**

34. The procurement of works, goods, materials and services shall be made in accordance with the Procurement Strategy, the Council's Contract Standing Orders and the Procurement Code.

35. To the extent that Standing Orders give Chief Officers freedom to enter contracts in such manner as seems to the Chief Officer to be appropriate and subject to the provisions of Financial Regulation 36, each Chief Officer shall establish, in writing, detailed arrangements for the handling of such contracts. Such arrangements may make different provision for:

- a) contracts of a different category;
- b) contracts of a different value; and
- c) different Approved Officers,

and in doing so shall have due regard to the need to obtain best value.

36. Chief Officers shall not have authority to enter any contract involving a finance or operating lease or a hire purchase arrangement without the approval of the Chief Financial Officer.

37. An official order form, approved by the Strategic Director for Commercial & Change, shall be used when entering any contract (as defined by Standing Orders), except where the nature of the transaction makes it inappropriate to do so. Chief Officers shall maintain lists of officers approved to authorise orders, specifying any limits on the level or scope of the approval.

### **Payment for works, goods, materials and services**

38. The Chief Financial Officer shall make arrangements for the examination, verification and certification of invoices and other vouchers for payment. Each Chief Officer shall send a list of the names of officers empowered to authorise such documents and electronic orders processed through the Council's financial system to the Chief Financial Officer, together with specimen signatures.

39. The Chief Financial Officer may provide sums of money for such officers as may need them for the purpose of defraying County Council expenditure.

40. Where any contract makes provision for part payment upon formal certification of part performance, such payments shall be made by the Chief Financial Officer only on certificates issued by persons authorised by or on behalf of the Council for that purpose in connection with that contract.

### **Payments to employees and former employees**

41. Payment to all employees and former employees of all salaries, wages, pensions, allowances, gratuities, emoluments and any other sums payable upon the termination of employment, including any redundancy payment, shall be made under arrangements controlled by the Chief Financial Officer.

42. Chief Officers shall notify the Chief Financial Officer (in the form prescribed) of all appointments, terminations of employment, absences and any other changes which may affect the pay or pension of present and past employees.

### **Income**

43. The Chief Financial Officer shall control the arrangements for the proper recording of all sums due to the Council and for the prompt and proper accounting for all cash, including its collection, custody, control and deposit.

44. All official receipt forms, receipt books, tickets and other documents of a similar nature shall be ordered, controlled and issued by the Chief Financial Officer.

45. No amount due to the Council, once established, shall be discharged otherwise than by payment in full, or by writing-off the whole amount due, or an unpaid portion thereof. No amount due shall be written off except with the approval of the Chief Financial Officer (or officer appropriately delegated by him) after consultation with the appropriate Chief Officer. Any such approval shall be shown in the accounting records of the Council.

46. The Chief Financial Officer shall maintain a register of all debts written off in pursuance of Regulation 45.

47. Where any amount recoverable in any court is due to the Council and remains unpaid after payment has been formally demanded in writing by or on behalf of the Assistant Director for Legal and Governance, proceedings may be instituted by or on behalf of the Assistant Director for Legal and Governance without further reference to the Cabinet unless the Chief Officer responsible, the Chief Financial Officer or the Assistant Director for Legal and Governance wishes the matter to be referred.

## **Banking**

48. The Chief Financial Officer shall make banking arrangements on behalf of the Council. No arrangements shall be made with the Council's bankers and no banking, building society, National Giro or similar account shall be operated, except by or under the authority of, the Chief Financial Officer.

## **Borrowings, other capital financing and investments**

49. The Chief Financial Officer shall be the Council's registrar of stocks, bonds and mortgages.

50. All borrowings shall be effected in the name of the Council.

51. a) The Council adopts the key recommendations of CIPFA's Treasury Management in the Public Services Code of Practice as described in section 4 of that code.

b) The Chief Financial Officer will create and maintain, as the cornerstones for effective treasury management:

i) a treasury management policy statement stating the policies and objectives of its treasury management activities

ii) suitable treasury management practices setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will work and control those activities.

52. a) The Chief Financial Officer will report to the Council or Cabinet on its treasury management policies, practices and activities and as a minimum will submit an annual strategy and plan, including an investment strategy in advance of the year, and an annual report after its close, in the form prescribed in its Treasury Management practices.

b) The Chief Financial Officer will take all executive and administrative decisions relating to treasury management and in so doing will act in accordance with the Council's budget and policy framework and Treasury Management practices and CIPFA's Standard of Professional Practice on Treasury Management. The Chief Financial Officer will report from time to time to the Cabinet on the

implementation and monitoring of the treasury management policies and practices, including the investment strategy.

53. All investments of monies under its control shall be made in the name of the Council or in the name of nominees approved by the Cabinet.

54. All money within the jurisdiction of the Council shall be aggregated for the purposes of Treasury Management and be under the control of the Chief Financial Officer, except as procedures issued under these regulations may from time to time provide.

55. All securities (other than title deeds of land or buildings) the property of or in the name of the Council or its nominees shall be held in the custody of the Chief Financial Officer, the Council's bankers, or the Pension Fund Managers as appropriate.

### **Trustees, receivers, appointees and agents**

56. All trust funds shall, wherever possible, be in the name of the Council and shall be operated in accordance with arrangements made by the Chief Financial Officer.

57. All officers acting as trustees by virtue of their official position shall deposit all securities relating to the trust with the Chief Financial Officer, unless the deed provides otherwise.

58. The Director of Adult Services and the Director of Children, Families and Communities may delegate any responsibilities associated with an appointment made by the Court of Protection as receiver in respect of individuals unable to manage their own financial affairs by virtue of mental disorder or incapacity.

59. The Director of Adult Services and the Director of Children, Families and Communities shall nominate in writing an officer or officers with authority to apply for appointment by the Secretary of State to act on behalf of individuals unable to act by reason of mental or other incapacity, in the exercise of rights under the Social Security Act. No other person, by virtue of their official position, may apply to act as an appointee.

60. The Director of Adult Services may not delegate any responsibilities associated with an appointment as an agent authorised to cash Social Security benefit for a person in residential accommodation provided under the Care Act 2014 (except as permitted by law). No other person, by virtue of their official position, may act as an agent for these purposes except with the express authorisation of the Director of Adult Services.

### **Assets**

61. Chief Officers shall be responsible for the security of all assets under their control.

62. Assets include land, property, money, stocks, stores, furniture, equipment and electronic data.

63. Records of these assets shall be maintained in a form and to an extent approved by the Chief Financial Officer.

64. Where it is necessary for an employee of the Council to take custody of property which is not the property of the Council, that employee shall ensure that a complete inventory is prepared and that arrangements are made to secure the safe custody of each item of such property. The Chief Financial Officer should be informed of any new insurable risk.

## **Insurance**

65. The Chief Financial Officer shall effect, or authorise the effect of, all insurance cover, maintain a register of such insurance and, except to the extent that the Director indicates otherwise, in writing, submit, negotiate and settle all claims made by or against the Council in pursuance of such cover.

66. The Chief Financial Officer shall report to the Cabinet not less than once in every two years on the insurance strategy for the authority.

67. Chief Officers shall:

- a) notify the Chief Financial Officer of the extent and nature of all new insurable risks and any alterations affecting existing insurable risks.
- b) Provide the Chief Financial Officer with all documents including witness evidence to enable investigation of a claim/potential claim as required.

68. Except to the extent that the Chief Financial Officer indicates otherwise, each Chief Officer shall inform the Chief Financial Officer as soon as practicable of any fire, explosion, flood, accident, loss, or other occurrence affecting the property of the Council or property held by the Council and shall, if required by the Chief Financial Officer, arrange for an estimated cost of making good the damage caused thereby.

69. Except to the extent that the Chief Financial Officer indicates otherwise, each Chief Officer shall inform the Chief Financial Officer of any occurrence involving:

- a) death of, or injury to, any employee of the Council, any Councillor, or any contractor or sub-contractor of the Council, whilst on Council business.
- b) the death of, or injury to, any person where such death or injury occurred on any property owned or used by the Council, or was occasioned by the conducting of the Council's undertaking:

and shall complete any necessary documentation as required by the Chief Financial Officer.

## **Ex-gratia payments**

70. Subject to compliance with any statutory provisions, a Chief Officer (in consultation with the Assistant Director for Legal and Governance), has authority to make ex-gratia payments up to a limit of £5000. Where the amount exceeds £5000 the Cabinet (or Cabinet Member with Responsibility with delegated authority) or Appointments etc Panel

(depending upon whether the matter relates to an executive function) may approve an ex-gratia payment on the joint recommendation of the relevant Chief Officer, the Assistant Director for Legal and Governance and the Chief Financial Officer.

### **Preparation of statutory financial statements**

71. The Chief Financial Officer shall make the necessary arrangements to facilitate the prompt preparation and completion of the final accounts of the Council at the end of each financial year. Chief Officers will assist the Chief Financial Officer by ensuring compliance with those arrangements.

### **Applications and claims for grant or subsidy**

72. Before any application or subsequent claim for the payment of grant or subsidy is submitted to any Government department, it shall be sent to the Chief Financial Officer for examination and certification. The approval of the Chief Financial Officer shall be required before any bid or application or claim for grant or subsidy in respect of any revenue or capital initiative is submitted to any body or organisation.

# **CONTRACT STANDING ORDERS**

## APPENDIX 8 – CONTRACT STANDING ORDERS

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## **APPENDIX 8 - CONTRACT STANDING ORDERS**

### **CSO 1 - INTERPRETATION**

#### **‘Approved Officer’**

An Approved Officer is a person (whether or not an officer of the Council) who is specifically designated by a member of the Strategic Leadership Team (SLT) to undertake procurement on behalf of the Council, and as such they are required to be nominated and designated in pursuance of CSO 2(4) – (6).

#### **‘Best Value’**

The optimum combination of whole life cost and quality (or fitness for purpose) to meet the customer’s requirement assessed in accordance with the Procurement Code.

#### **‘Contract’**

A contract for the purposes of these Contract Standing Orders shall be any agreement (whether or not in writing) between the Council and one or more other parties in respect of:-

- (a) the acquisition of goods, works and services as such are defined in the Public Contract Regulations
- (b) the disposal of goods so defined; and includes an agreement with the financier, or any insurer of or trustees for the financier of a kind described in Section 1(2) of the Local Government (Contracts) Act 1997.

For the avoidance of doubt, these Contract Standing Orders shall not apply to: -

- (a) The sale, leasing or purchase of land, or of any interest in land, and
- (b) Any contract of employment.

#### **‘Council’s Threshold’**

The threshold value that determines the application of these Contract .

Standing Orders pursuant to CSO 5(1) is as set out in the Procurement Code.

#### **‘Public Contract Regulations’**

The Public Contracts Regulations 2015 as amended from time to time; the Agreement on Government Procurement (GPA) entered into under the auspices of the World Trade Organisation; the European Community Treaty (EU Treaty) and any relevant regulations, directives or decisions of the European Community; any Acts of Parliament or statutory instruments implementing the aforementioned for the time being in force in the United Kingdom; and any relevant judgments of the European Court of Justice or the UK courts.

‘

### **Procurement Plan'**

The procurement plan prepared in pursuance of CSO 4.

### **'Register of Approved Officers'**

The register of approved officers maintained in pursuance of CSO2(5).

### **'Register of Contracts'**

The register of contracts entered into by the Council maintained in pursuance of CSO 9(2).

### **'Register of Tenders'**

The register of tenders received by the Council maintained in pursuance of CSO 7(5).

### **'Relevant EU Thresholds'**

The threshold values that determine the application of the Public Contract Regulations pursuant to CSO 6(2).

### **'Tender'**

For the purposes of these Contract Standing Orders, 'tender' includes an offer submitted at any stage of a negotiated procedure conducted pursuant to CSO 6(6) and, where the context so requires, 'invitation to tender' includes an invitation to negotiate.

### **'Writing'**

The expression 'in writing' in relation to any communication includes an electronic communication as defined in the Electronic Communications Act 2000, and in relation to the conclusion of a contract may include conclusion by electronic means provided that the Strategic Director for Commercial & Change has approved the means of conclusion and the conclusion of the contract or class of contracts in question by such means. Where reference is made to 'records' and 'registers' these shall be electronic in form where required by statute, regulations or statutory guidance for the time being in force in the United Kingdom and may be electronic in form provided that the Strategic Director for Commercial & Change has approved the method.

## **CSO 2 - COMPLIANCE**

(1) Every contract awarded by or on behalf of the Council in respect of:

- (a) goods
- (b) works, or
- (c) services

of any description shall be awarded and managed, as necessary, in accordance with the Public Contract Regulations directives or other applicable statutory regulations for the time being in force in the United Kingdom, the Council's

Financial Regulations and Standing Orders, Procurement Strategy and the Procurement Code issued under paragraph (2) below.

(2) The Strategic Director for Commercial & Change may from time to time issue a Procurement Code setting out in further detail the rules to be followed when awarding contracts under these Contract Standing Orders and Financial Regulations together with guidance on best practice.

(3) Compliance with the rules set out in the Procurement Code is mandatory under these Contract Standing Orders and the adoption of best practice is recommended.

(4) An 'Approved Officer' shall be designated in respect of any specified contract or category of contracts and the values or amounts in respect of that category or those categories, provided that the phrase 'Approved Officer' may also include any person specified by name or office as being able to act in the absence of a person designated as 'Approved Officer'.

(5) The Chief Financial Officer shall maintain a Register of Approved Officers and such Register shall be open to inspection by the public at all reasonable times.

(6) Any member of the Strategic Leadership Team is hereby authorised to nominate on behalf of the Council any person for designation as an Approved Officer. Such designation shall occur and take effect upon the date of receipt by the Chief Financial Officer of the nomination and the name of the person so nominated shall be recorded in the Register of Approved Officers.

### **CSO 3 - ETHICS AND PROBITY**

(1) In all their dealings, Members and officers of the Council shall preserve the highest standards of honesty, integrity, impartiality and objectivity. This includes compliance with the Members' Code of Conduct and the Employees' Code of Conduct respectively, and all relevant legislation such as the Bribery Act 2010.

(2) The Assistant Director for Legal and Governance shall record in a book (which may include an electronic file) to be kept for the purpose particulars of any notice given by an Officer of the Council under Section 117 of the Local Government Act 1972 of a pecuniary interest in a contract, and the book shall be open during office hours for inspection by any member of the Council.

### **CSO 4 - PROCUREMENT PLAN, NOTICES, ETC**

(1) As soon as possible after the commencement of each financial year, the Strategic Director for Commercial & Change shall prepare a Procurement Plan setting out information on current contracts and contracts to be awarded in the period covered by the plan.

(2) The information to be included in the Procurement Plan pursuant to paragraph (1) and the procedures for publishing and maintaining the plan are set out in the Procurement Code.

(3) Pursuant to the Public Contract Regulations, prior information notices and contract award notices shall be published in respect of contracts to which the Public Contract Regulations apply and a statistical return shall be completed each year.

## **CSO 5 - INVITATION OF TENDERS**

(1) Subject to CSO 6(6), tenders shall be invited for all contracts with an estimated value (in money or money's worth) equal to or exceeding the Council's Threshold as set out in the Procurement Code.

(2) Chief Officers may make arrangements, in accordance with Financial Regulations, for handling contracts of value less than the Council's threshold.

(3) Where the estimated value of a contract does not equal or exceed the amount mentioned in paragraph (1) above, an Approved Officer may -

(a) proceed in accordance with CSO 6, or

(b) enter into such contract in accordance with the arrangements made by the Chief Officer under (2) above.

(4) The number of tenders invited pursuant to paragraph (1) shall be appropriate to the nature and size of the contract and shall be determined with a view to obtaining Best Value for the Council. In the case of open and restricted procedures, the number invited may not be less than five or such number (if fewer) that meet the Council's pre-qualification criteria, and in any event may not be less than three.

(5) The estimated value of a contract for the purposes of these Contract Standing Orders is the total estimated expenditure for the duration of the contract calculated in accordance with the Public Contract Regulations, assuming that all options which would bring about an increase in expenditure are exercised.

(6) No requirement for goods, works or services may be sub-divided with the intention of avoiding the application of the Public Contract Regulations or these Contract Standing Orders.

## **CSO 6 - TENDERING PROCEDURES**

(1) Before proceeding in accordance with CSO 5 in relation to any contract the Approved Officer shall consult the Procurement Code to determine whether and to what extent the Public Contract Regulations apply to the award of that contract.

(2) The Public Contract Regulations apply to the award of contracts with an estimated value equal to or exceeding the Relevant EU Thresholds as set out in the Procurement Code. The Code specifies which contracts are excluded from the application of the Public Contract Regulations.

(3) Contracts to which the Public Contract Regulations apply shall be awarded in accordance with those rules and by means of one of the following procedures as set out in the Procurement Code -

- (a) Open;
- (b) Restricted;
- (c) Competitive Procedure with Negotiation;
- (d) Competitive Dialogue;
- (e) Innovation Partnership; or
- (f) Negotiated Procedure without prior publication.

(4) Where in pursuance of CSO 5(1) tenders are to be invited in respect of contracts that are excluded from the Public Contract Regulations the Approved Officer may proceed by following any of the procedures referred to in paragraph (3) above (adjusted in the manner set out in the Procurement Code).

(5) Subject to paragraph (6) below, the Approved Officer shall select the procedure that appears to him to be most likely to secure Best Value for the Council.

(6) An Approved Officer may decide on any of the grounds set out in the Procurement Code (those grounds being consistent with the Public Contract Regulations), but not otherwise, to award a contract for which tenders would otherwise be required under CSO 5(1) by means of a Negotiated Procedure without prior publication.

(7) The Approved Officer shall record the justification for using a Negotiated procedure without prior publication pursuant to paragraph (6) above. The record shall be held by the Strategic Director for Commercial & Change.

(8) Negotiations shall be conducted in accordance with the procedures set out in the Procurement Code and by at least two Approved Officers, at least one of which is a Chief Officer or an officer of the Council designated by a Chief Officer. A Chief Officer remains directly accountable for the actions of his designate.

(9) A proper record shall be kept of all stages of the negotiations. The record shall be held by the Strategic Director for Commercial & Change.

## **CSO 7 - SUBMISSION AND OPENING OF TENDERS**

Except as provided in CSO 11:-

(1) Every tender submitted in pursuance of these Contract Standing Orders (other than any tender or similar offer made where the Council is proceeding in pursuance of CSO 5(3)(b)) shall be advertised on the Council's e-tendering portal.

(2) Any invitation to tender shall name the latest date and time for the submission of tenders.

(3) Tenders shall not be opened until the time and date specified for their opening. No tender shall be considered if it is received after the time and date specified in the invitation to tender.

(4) Tenders shall be opened by an Approved Officer.

## **CSO 8 - IDENTIFYING PREFERRED TENDERERS**

(1) Where tenders have been received and opened in accordance with these Contract Standing Orders, the Approved Officer shall examine the tenders received, shall carry out any negotiations appearing to be necessary and authorised by the Procurement Code and shall satisfy him/herself that: -

- (a) all approvals required by the Council's Constitution have been obtained, together with any necessary consents, permissions or other approvals (including loan or other financial approvals);
- (b) the tender is compliant with the invitation to tender and, in particular, meets any specification or requirements or contract terms set out in or detailed in that invitation;
- (c) where appropriate, and if necessary by taking specialist advice, the quantity, quality or safety of any goods, materials, services or works is likely to be satisfactory; and
- (d) (by reference to an estimate, where appropriate), the tender offers Best Value in accordance with the Procurement Code and the contract award criteria established before the tendering procedure was commenced.

(2) Where the Approved Officer is satisfied as regards the matters specified in paragraph (1) above he/she may accept that tender.

## **CSO 9 - EXECUTION OF CONTRACTS**

(1) Every contract to be entered into by or on behalf of the Council that equals or exceeds in value (in money or money's worth) the Council's Threshold shall be in writing and either:

- (a) have the Common Seal of the Council affixed and attested either by the Assistant Director for Legal and Governance or any person authorised by him/her present at the sealing; or
- (b) be signed by two Officers of the Council, at least one of whom is an Approved Officer.

(2) A record of each contract executed in accordance with paragraph (1) above shall be entered in a Register of Contracts maintained for that purpose by the Strategic Director for Commercial & Change.

## **CSO 10 - DELEGATED MANAGEMENT**

(1) The provisions of CSO 7 shall not apply to:-

- (a) the governing body of any school which is subject to the Scheme of Delegation approved by the Secretary of State for Education pursuant to statutory authority;  
or
- (b) such other bodies as may be designated from time to time by the Strategic Director for Commercial & Change.

(2) The bodies designated in accordance with paragraph (1)(b) above and the arrangements to be made by the bodies referred to in paragraph (1) shall be set out in the Procurement Code.

## **CSO 11 - EXEMPTIONS FROM CONTRACT STANDING ORDERS**

In any circumstances where exemption is not otherwise provided for by the preceding Contract Standing Orders, an Approved Officer will seek approval for exemption from the Strategic Director for Commercial & Change, specifying the circumstances by which the exemption is considered justified. The Strategic Director for Commercial & Change will, if he considers it appropriate, make exemption from the stated provisions of these Contract Standing Orders.

The Strategic Director for Commercial & Change will maintain a register of the exemptions made.

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# OFFICER EMPLOYMENT PROCEDURE RULES

## APPENDIX 9 – OFFICER EMPLOYMENT PROCEDURE RULES

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## **APPENDIX 9 – OFFICER EMPLOYMENT PROCEDURE RULES**

### **1. Recruitment and appointment**

#### **1.1 Declarations**

- (a) The Council requires any candidate for appointment as an officer under the Council to state in writing whether they are related to (or have a close personal relationship with) an existing Councillor or an employee of the Council.
- (b) Every Councillor and employee of the Council shall disclose to the relevant Director for the post any such relationship known to them to exist between themselves and a candidate for an appointment of which they are aware and that Director shall record such disclosure.
- (c) No candidate so related to a Councillor or employee will be appointed without the authority of the relevant Director or an officer nominated by him/her (unless the appointment falls to be made by Members).
- (d) Where such relationship to a Councillor or employee exists, the Councillor or employee concerned (if it is an appointment which falls to be made by Members) shall not take part in the consideration, or discussion of, or vote on, any question with respect to the appointment.

#### **1.2 Seeking support for appointment**

- (a) The Council will disqualify any applicant who directly or indirectly canvasses any Councillor or Officer for any appointment with the Council.
- (b) No Councillor will canvass for any person for any appointment with the Council although nothing in this paragraph precludes a Councillor from giving a written reference on a candidate's ability, experience or character for submission with or in connection with that candidate's application.

#### **1.3 The effect of paragraphs 1.1(a) and 1.2(a) will be stated in any recruitment information.**

### **2. Recruitment of Head of Paid Service (Chief Executive), Directors and Heads of Service**

2.1 Where the Council proposes to appoint the Head of Paid Service or a Director or a Head of Service or any other statutory Chief Officer within the meaning of the Local Government and Housing Act 1989 (collectively known as Chief Officer-related posts) and it is not proposed that the appointment will be made exclusively from among their existing officers, the Appointments etc Panel (Panel) will on behalf of the Council be responsible for:

- (a) making arrangements for the drawing up of a statement specifying:
  - i. the salary range, role and responsibilities of the post concerned; and

- ii. any qualifications or qualities to be sought in the person to be appointed.

(b) making arrangements for an appropriate recruitment exercise to be undertaken.

### **3. Appointment etc of Head of Paid Service (Chief Executive), Directors and Heads of Service**

3.1 Subject to 3.5, 3.7 and 3.8 below, the appointment of such Chief Officer – related posts, including acting appointments, shall be the responsibility of the Panel. A Panel may delegate such matters as it thinks fit to an officer.

3.2 Each Panel shall be appointed ad hoc and comprise six (or in the case of the Head of Paid Service, at least seven) members of the Council nominated, so far as is reasonably practicable, according to the political balance of the Council. Each Panel shall include at least two members of the Cabinet (or three in the case of the Head of Paid Service).

3.3 Each Panel shall comply with any necessary recruitment and selection arrangements, shall confirm a shortlist of qualified applicants and interview those shortlisted and forwarded for interview.

3.4 In each case (subject to 3.5 in respect of the Head of Paid Service), an offer of appointment may be made by or on behalf of the Panel but not until:

(a) The Assistant Director for Legal and Governance has notified each Member of the Cabinet of relevant particulars in relation to the proposed appointment; and

(b) either

- i. the Assistant Director for Legal and Governance, within one working day of such notification, has received no objection from the Leader of the Council, or has been notified by the Leader that neither he/she nor any other member of the Cabinet has any objection to the proposed appointment; or
- ii. the Panel is satisfied that any objection received within one working day of the notification is not material or is not well founded.

3.5 In the case of the appointment of the Head of Paid Service, the full Council must approve that appointment before any offer of appointment is made to that person.

3.6 Where no qualified person has applied or no qualified applicant is selected for interview by the Panel or the Panel does not make an appointment then (unless no appointment to the post is to be made) further arrangements will be made to undertake a recruitment exercise under paragraph 2 above.

- 3.7 Temporary redeployment of a Head of Service to another Head of Service post within the same Directorate may be authorised by the relevant Director subject to the written agreement of the Head of Paid Service and in consultation with the relevant Cabinet Member with Responsibility or the Leader.
- 3.8 Acting appointments at Head of Service level for a period no longer than 4 months may be approved by the Head of Paid Service, in consultation with the relevant Cabinet Member with Responsibility for the service in question.

#### **4. Other appointments**

##### **4.1 Officers below Heads of Service**

Appointments of officers other than those in Paragraph 3 (except assistants to political groups) are the responsibility of the Chief Officer responsible for the post (or his/her nominee) to which the appointment is to be made, and may not be made by councillors.

##### **4.2 Assistants to political groups (if any)**

4.2.1 This paragraph 4.2 shall apply when the Council resolves to exercise its powers under Section 9 of the Local Government and Housing Act 1989 to make appointments to posts, the duties of which are to provide assistance to members of a political group in the discharge of any of their functions as members of the Council.

4.2.2 Before proceeding to make any such appointment, the Council shall first decide:-

- (a) to create up to three posts (the actual number to be determined as required by Section 9) to which such an appointment can be made;
- (b) in accordance with sub-sections (3) and (4) of Section 9, the annual rate of remuneration for the post or posts and the date of termination of any appointment and all other terms and conditions of employment;
- (c) to allocate one such post to each political group which, within the meaning of and in accordance with Section 9, qualifies for one.

4.2.3 The Council, in making the decision in paragraph 4.2.2 above shall not:-

- (a) allocate such a post to a political group which does not qualify for one;
- (b) allocate more than one post to any one political group.

4.2.4 Any political group allocated such a post by the Council may from time to time fill that post in accordance with their wishes, but only:-

- (a) in accordance with the determination of the Council made in pursuance of paragraph 4.2.2(b) above, unless the political group to which the post is allocated indicate that they are content that the terms and conditions of any such post shall be less favourable than they would otherwise be;

(b) if the Council has, at the time the appointment is made, allocated such a post to each of the political groups which qualify for one.

4.2.5 Whenever any such post has been allocated and is vacant the Assistant Director for Legal and Governance shall, in accordance with the wishes of the political group to which it is allocated and, in accordance with any policies or practices established by the Council to regulate the filling of any post, fill that post and appoint to it such person as that group shall indicate, provided that the said group may indicate that the said vacancy should be advertised in up to three newspapers or periodicals of their choice.

4.2.6 For the avoidance of doubt, if any post or appointment the subject of this paragraph involves a proposal to appoint to a Chief Officer-related post (within the meaning of the Local Authorities (Standing Orders) (England) Regulations 2001 as amended), then any such appointment shall (in addition to complying with the requirements of these Rules) also comply with the requirements of paragraph 2 and 3 above.

*[Note – the Council has not resolved to appoint Political Assistants.]*

## **5. Disciplinary action and dismissal**

5.1 Disciplinary action means any action occasioned by alleged misconduct which, if proved, would according to the usual practice of the authority be recorded on the Officer's personal file, and includes proposals for dismissal for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Council has undertaken to renew such a contract.

### **Officers below Head of Service**

5.2 Disciplinary action against and dismissal of Officers (other than those Chief Officer-related posts defined in paragraph 2) is the responsibility of the Chief Officer (or his/her nominee) responsible for the post held by the Officer, and may not, subject to paragraph 5.9 below, be carried out or discharged by Councillors.

### **Chief Officer-related posts**

5.3 Subject to 5.5, Disciplinary action (other than suspension as below) against and dismissal of such officers defined in paragraph 2 shall be the responsibility of a Panel constituted in accordance with Paragraph 3.2. The appropriate line manager of the officer concerned or the Panel may suspend that officer pending any appropriate investigations or hearings. The Head of Paid Service may be suspended only by the Panel. Matters relating to the terms and conditions and capability of Chief Officer-related posts (other than day to day management and the provisions of paragraph 6) shall also be the responsibility of the Panel.

5.4 Subject to 5.5, notice of dismissal of such officers may be given by the Panel, but not until:

(a) the Assistant Director for Legal and Governance has notified each Member of the Cabinet of relevant particulars in relation to the proposed dismissal; and

(b) either

- i. the Assistant Director for Legal and Governance has, within one working day of such notification, received no objection from the Leader of the Council, or has been notified by the Leader that neither he/she nor any other member of the Cabinet has any objection to the proposal; or
- ii. the Panel is satisfied that any such objection received from the Leader within one working day of the notification is not material or is not well-founded.

5.5 In the case of the dismissal of the Head of Paid Service, the Chief Financial Officer or the Monitoring Officer, full Council must approve the dismissal before notice of dismissal is given to that person. The Head of Paid Service, the Chief Financial Officer and the Monitoring Officer may not be dismissed in respect of disciplinary action unless the procedure set out in paragraphs 5.6 – 5.8 is complied with.

5.6 A Panel must be appointed in accordance with the provisions of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 for the purposes of advising the Council on matters relating to the dismissal of the Head of Paid Service, Monitoring Officer or Chief Financial Officer in respect of disciplinary action. That Panel shall be an ad hoc Special Appointments etc Panel together with 2 Independent Persons as full voting members of that Panel. 'Independent Persons' are those appointed by the Council under Section 28 (7) of the Localism Act 2011 and their remuneration, allowances or fees for membership of the Panel must not exceed that payable in respect of their role under that section.

5.7 Independent Persons must be invited to be considered for appointment with a view to appointing 2 of them to the particular Panel. The Council must appoint to such a Panel (such appointment to be made by the Chairman of the Standards and Ethics Committee) 2 Independent Persons who have accepted such an invitation in accordance with the following priority order:

- (a) an Independent Person appointed by the Council who is a local government elector
- (b) an Independent Person appointed by the Council who is not a local government elector, and
- (c) an Independent Person appointed by another authority or authorities.

5.8 The Special Appointments etc Panel must be appointed at least 20 working days before the meeting of Council which is to consider whether or not to approve a proposal to dismiss the officers referred to in paragraph 5.5 in respect of disciplinary action. Before the taking of a vote at such a meeting of Council on whether or not to approve such a dismissal, Council must take into account in particular:

- (a) any advice, views or recommendations of that Special Appointments etc Panel;
- (b) the conclusions of any investigations into the proposed dismissal; and
- (c) representations from the relevant officer.

### **Involvement of Councillors**

- 5.9 Councillors will not take any disciplinary action against or dismiss any officer below Head of Service although they may assist any management investigation or inquiry into alleged misconduct, and the Council's disciplinary, capability and related procedures as adopted from time to time may allow a right of appeal to a Panel of Members in respect of disciplinary action or dismissal.

## **6. Powers of Chief Officers in relation to employment matters**

- 6.1 Subject to the preceding paragraphs of these rules Chief Officers have delegated authority, in accordance with the scheme of delegation to officers and in pursuance of any policies, practices and procedures which the Council may from time to time have in place, to take decisions relating to staffing and personnel matters unless specific decisions are removed from Chief Officers, and may delegate these powers to other officers. Specifically so excluded is the determination of any decisions in respect of the Chief Officer – related posts relating to the exercise of the Council's discretion in respect of the Local Government Pension Scheme.
- 6.2 The Head of Paid Service has delegated authority, in consultation with the relevant Cabinet Member with Responsibility for the service in question, to approve a honorarium or acting up allowance (e.g. to recognise temporary additional responsibilities where appropriate) to a Head of Service or Director for a period not exceeding 12 months. Any extension of such arrangements beyond 12 months would require the authority of the Appointments etc Panel.

# Worcestershire County Council

## Councillor Code of Conduct

### Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. 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 sub-committee 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”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

### Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

### General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

## **General Conduct**

### **1. Respect**

#### **As a councillor:**

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

### **2. Bullying, harassment and discrimination**

#### **As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority'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 councillor:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

**As a councillor:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

**4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

**4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

**As a councillor:**

### **5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

**As a councillor:**

### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

**As a councillor:**

### **7.1 I do not misuse council resources.**

### **7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

**As a Councillor:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

### **Protecting your reputation and the reputation of the local authority**

## **9. Interests**

**As a councillor:**

**9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking

part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B sets** out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

**As a councillor:**

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **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 Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

“**Disclosable Pecuniary Interest**” means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

“**Partner**” means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it ]

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you

have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

## Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	<p>Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
<b>Contracts</b>	<p>Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council</p> <p>—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>

<p><b>Land and Property</b></p>	<p>Any beneficial interest in land which is within the area of the council.  ‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<p><b>Licenses</b></p>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
<p><b>Corporate tenancies</b></p>	<p>Any tenancy where (to the councillor’s knowledge)—  (a) the landlord is the council; and  (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<p><b>Securities</b></p>	<p>Any beneficial interest in securities* of a body where—  (a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and  (b) either—  (i) ) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or  (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

\* 'director' includes a member of the committee of management of industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## Table 2: Other Registerable Interests

You must register as an Other Registerable Interest:

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointment by your authority.
- c) any body
  - (i) exercising functions of a public nature
  - (ii) directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

of which you are a member or in a position of general control or management.

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# **OFFICERS' CODE OF CONDUCT**

## APPENDIX 11 – OFFICERS’ CODE OF CONDUCT INDEX

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Note 2 15

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## **1.0 Introduction**

1.1 This Code describes the standards of conduct and behaviour expected from our staff and any staff seconded or engaged from other organisations to undertake the work of the county council. It also highlights some types of behaviour or conduct which might be considered incompatible with being a county council employee. It is intended to help you by describing the standards expected of you and has been approved by the council following consultation with the appropriate Trade Unions. Please take time to read it and ensure your conduct meets these requirements. If you are at all uncertain about what is expected please seek further clarification from your line manager so that you do not unwittingly contravene this Code or otherwise act against the county council's interests.

1.2 Contravening or failing to act within the spirit of the Code, or behaving in a manner which could bring the good name of the county council in to disrepute, whether or not within the workplace or working time, might be seen as a breach of discipline and could lead to action being taken against you under the appropriate procedure.

1.3 While workers who are not employees of the county council are expected to comply with the spirit of the Code, any action that may be taken in response to a breach will depend on the precise nature of their working relationship with the county council.

## **2.0 Guiding principles**

2.1 The county council has an excellent record of integrity and the public are entitled to and do count on the highest standard of behaviour from anyone who works for the organisation. This is reflected in our People Strategy which requires adherence to the county council's values and ethos.

2.2 To the public you represent the county council. You are expected to maintain the highest standards of professional competence, knowledge, integrity, confidentiality, financial propriety and personal conduct. Service delivery should be courteous, efficient and impartial to all groups and individuals. You must adhere to county council policies and procedures and be familiar with the performance standards for customer care and the procedures for handling complaints.

2.3 It is not appropriate for you when working within your role as an employee to oppose the stated aims and policies of the county council or to undermine the performance of its duties and responsibilities. It is important for all employees to present a unified corporate image to the public.

2.4 It is not acceptable for you publicly to criticise or blame colleagues, council departments or county councillors through any medium including internet 'blogs' or web sites and you must be aware that the laws governing defamation, breach of copyright etc. apply equally to 'blogging' as to other forms of communications. Offensive, defamatory, discriminatory or otherwise inappropriate comments will not be tolerated and may constitute a disciplinary and/or criminal offence, as could the disclosure/publication of any confidential or personal information about the business of the county council, its staff, county councillors, clients or suppliers.

2.5 Where practical a link has been included to some of the policies and procedures referred to within this document. Others are available on the Staff Intranet, S.I.D., and

you must familiarise yourself with them. Staff who do not have access to the staff intranet should request copies of appropriate policies etc through their line manager or administrative office.

2.6 It is also incumbent upon you to ensure that you are aware of and comply with any relevant rules and instructions which pertain to your particular job. These may include local orders, legislation, individual terms and conditions of service, professional standards/codes, financial regulations and accounting instructions - this list is not intended to be exhaustive. Similarly the Code cannot cover every situation but will be subject to reasonable interpretation in situations not specifically included.

2.7 Any disagreement involving the interpretation or application of the Code as it applies to you should be discussed with your line manager in the first instance. However, if you feel the Code is being applied unreasonably you may be able to seek redress through the county council's Grievance Procedure.

### **3.0 Personal interests (see also note 1 and 2 below)**

3.1 The interests of the county council must not be undermined by personal interests. The way you do your job must not be influenced by personal interests or those of relatives, friends or membership of external organisations or societies. There should be no grounds for suspicion that you are using your position with or knowledge of the county council for personal gain or that you could be influenced by improper motives. If you belong to outside organisations, including voluntary organisations, there must be no conflict with your job or other county council interests.

3.2 All orders, contracts and grants must be awarded on merit following fair competition. No favour should be shown because of personal interests and no part of the community should be discriminated against.

3.3 You must advise your line manager in writing about anything which could give the impression that you may be acting for personal gain, financial or otherwise, or in the interests of another person or organisation; or you are involved as an officer in matters which might reasonably be regarded as affecting the well-being or financial position of yourself, your spouse, partner, relative, a close friend or any person with whom you have a close association eg. if any of those persons

- hold an office or employment with
- have any connection or influence with
- have any financial interest in

any company or organisation doing or seeking to do business with, or requesting grants or other funding from the county council.

3.4 You should avoid being involved as an officer in matters which might reasonably be regarded as affecting the well-being or financial position of yourself (or the persons, companies or organisations referred to above) so significant that it is likely to prejudice your judgment of the public or council's interest.  
(nb. holding shares in a company with which you know the county council is likely to be dealing, or acting as an agent for them, could be regarded as a financial interest).

3.5 You must advise the Assistant Director for Legal and Governance in writing of any direct or indirect pecuniary interest in a contract or proposed contract with the county council as soon as practicable after becoming aware of it so that it can be recorded in the "Register of Officers' Interests". Failure to do so may be a criminal offence as well as a disciplinary matter.

3.6 You must advise your line manager of any personal dealings of a business or private nature with existing or potential suppliers, consultants or contractors who you know (or could reasonably be expected to know) to have dealings with the county council.

3.7 If you engage or supervise contractors or consultants on behalf of the county council or have any other official relationship with them you must advise your line manager, prior to any contractual relationship beginning or work being undertaken, if you have or intend to have any private or domestic relationship with them or any of their employees.

#### **4.0 Private work**

4.1 Council premises, equipment, working time or other resources must not be used to undertake private work.

4.2 The county council needs to be aware if its employees undertake private work or voluntary activities in their own time to ensure that there is no conflict of interests with council business and to meet its obligations under Health & Safety legislation. Therefore, to protect yourself and the council from potential criticism you should not put yourself in a position where there is an actual or perceived conflict of interests. You should be aware that outside work or activity, whether or not you receive payment, could reduce your ability to safely and effectively carry out your employment with the county council eg. through tiredness, and would be considered unacceptable.

4.3 You must advise your line manager before engaging in any other work especially if it could reasonably be seen to conflict with your employment with the county council or lead to misunderstanding or criticism. If you are paid salary spinal column point 29 or above you must also get written consent from or on behalf of your chief officer before undertaking outside work. If permission is refused the reasons will be explained and you will have the opportunity to appeal against the decision.

4.4 You must not undertake private work for any individual, organisation, department or establishment which otherwise would be undertaken as part of your normal duties or by the service area in which you work. Any charge raised as a result of undertaking work within a school or other establishment should be paid to the county council.

4.5 You must not undertake private work when on sick leave without the express knowledge and prior written approval of your line manager and subject to appropriate medical advice.

4.6 You must not undertake private work for any county council department or establishment during a period of paid leave or suspension.

## **5.0 Expressing concern about irregularities and tackling malpractice**

5.1 If you feel there is something seriously wrong at work please tell an appropriate person (see paragraph 5.3) as a "voice of concern". It might be the conduct of another employee, the way a contractor is behaving, a work practice, something that might affect the environment, misuse of plant, machinery or a building. You might be the first to notice it and your intervention could stop things getting worse.

5.2 Fraud happens when someone gets a benefit (usually money or property) through deceit. If you suspect fraudulent activity inform Internal Audit who will discuss and investigate any concerns raised in the strictest confidence.

5.3 No matter how reticent you may feel, you should raise any serious concern - eg. a suspicion of fraud or corruption or reasonable belief that other's health, safety or well-being are in danger - with your line manager, the next senior manager, your Director or Human Resources Manager, so that potentially serious problems or malpractice can be addressed without undue delay. If you do raise a genuine concern in good faith all reasonable steps will be taken to respect your confidence and protect you from possible reprisals (see Confidential Reporting Whistleblowing Policy).

5.4 The county council is committed to high standards and integrity. If you have genuine and serious concerns that some malpractice is being condoned within your Directorate and have exhausted or cannot rely on local channels you should raise your concerns with the Chief Executive or, if your complaint concerns the Chief Executive personally or illegal activity, the Assistant Director for Legal and Governance in his/her role as Monitoring Officer.

5.5 The county council takes this issue very seriously and will investigate and address any problems genuinely raised. However, any frivolous, malicious or mischievous use of the Confidential Reporting Whistleblowing Policy will be treated as a serious disciplinary matter.

## **6.0 Copyright**

6.1 You should be aware that "intellectual property" such as software, ideas, documents etc. created during your employment belong to the county council. All files, materials, the media upon which they are located and all software programmes or packages which are utilised or developed solely for or in connection with your job remain county council property.

## **7.0 Confidentiality**

7.1 The county council is committed to open government and, in law, certain information must be made available to councillors, government departments, service users and the public. However, you must make sure you know whether information is 'public' or confidential and treat it accordingly.

7.2 You may sometimes acquire information at work which has not been made public or is confidential. Examples include 'business sensitive' information, information about an

employee, client or service user, information on tenders or costs, the proceedings of a meeting from which the press or public have been excluded; even processes and systems you have developed during the course of your work which are the intellectual property of the county council.

7.3 You must ensure that sensitive and/or confidential information is properly secured and safeguarded at all times especially if being transported in paper or electronic formats. Particular care must be taken with information stored on portable electronic media such as laptops and memory devices which are often targeted for theft due to their high intrinsic value.

7.4 Confidential Information which comes into your possession must not be used for personal benefit or divulged to other parties except in the proper course of duty. Similarly, you must not disclose information about organisational policy and operations unless authorised to do so in the course of your duties. If you have any doubt whether or not disclosure is appropriate, even in response to an apparently legitimate inquiry such as a police investigation or request for information under the Freedom of Information Act, you must check with your line manager before releasing confidential information.

7.5 Some information can be extremely valuable in business and commerce and its publication, loss or misuse could seriously disadvantage the county council and its employees. Therefore, it is important that you do not, deliberately or inadvertently, pass on information, including software, during or after your employment with the county council, to anyone who has no right to receive it. You must not discuss, disclose, publicise or use such information for your own or anyone else's personal interest or advantage.

7.6 You must decline any approaches or offers made asking for information which could be detrimental to, or help others to gain a contract, grant or any other advantage from the county council and/or its employees eg. a potential contractor could offer a financial reward for information leading to the award of a major contract. Approaches or offers of this kind must be declared to your head of service or director without delay.

## **8.0 Contact with the media**

8.1 The Communications Unit works to promote the policies and reputation of the council and has specific skills and expertise in relations with the media. Unless you are properly authorised to speak with, write or give interviews to the media you should refer enquiries from the media on work related matters to the Communications Unit.

## **9.0 Information Technology and Data Protection**

9.1 Everyone using computing equipment has a duty of care to use it according to prescribed arrangements eg. to avoid introducing computer viruses, to comply with the Data Protection Act, and to safeguard and ensure the security of information.

9.2 You must familiarise yourself with the ICT Security documents particularly Information Security, Internet and e-mail Policy, Network and Workstation Security and Virus Protection Policy. You must also comply with any general management and security guidelines for computers within your section.

9.3 You must also ensure you comply with the county council's Information Classification Policy.

9.4 If in any doubt ask the person responsible for Information Technology and Data Protection within your directorate.

## **10.0 Gifts, inducements, hospitality and sponsorship (see also note 1 and 2 below)**

10.1 You must not accept any commission, discount, allowance, direct or indirect profit, inducement, payment, perk or benefit in connection with any professional work undertaken, other than any fee recoverable on behalf of the county council (see also paragraph 11.0 below - Gifts and bequests).

10.2 Minor gifts and hospitality are sometimes part of the normal courtesies of life: a client, supplier or contractor may offer a modest gift, especially at Christmas or as a token of appreciation, and in an office situation simple items such as diaries and calendars are often distributed as advertising matter. As a guideline, any gift or hospitality with a value of £25.00 or more is highly unlikely to be viewed as a 'token'. With the exception of these "tokens" and any special schemes (e.g. travel or discount schemes) arranged by the county council, all gifts, vouchers, fees, special discounts, rewards or preferential treatment must be refused. Collection of reward card points, such as Nectar and Clubcard, on a personal account in respect of County Council purchases, will be viewed as a serious disciplinary matter as it is a benefit in kind which should be reported to HMRC and subject to deduction of Income Tax.' In situations where refusal is difficult or might offend you must inform your line manager who will decide on the appropriate action. You must consider whether it is appropriate to accept even token gifts eg. when you are dealing with regulatory or procurement matters it would usually be inappropriate to receive any gift from involved parties. In case of doubt, consult your line manager.

10.3 Offers of hospitality, even if of a seemingly minor nature, must be treated with particular caution as they can leave both individuals and the county council open to all manner of allegations or impropriety. The timing of offers of hospitality eg. in relation to purchasing, the award of contracts, granting of applications or other decisions, should be considered equally to the generosity of the hospitality offered. Accepting hospitality must be justified in the public interest eg. when there is a genuine need to represent the authority. You must inform your line manager of an invitation or offer of hospitality before it is accepted.

10.4 Where an outside organisation wishes to sponsor any activity or the county council wishes to sponsor an event or service, the basic principles relating to personal interests and the acceptance of gifts or hospitality apply.

## **11.0 Gifts and bequests**

11.1 Working closely with and/or caring for vulnerable people as a part of your duties can lead to offers of financial or other gifts or even a bequest in a will. This could be construed as taking advantage of your professional position and can be very difficult to deal with. It may also lead to suspicion and dissatisfaction by relatives who may

challenge the reason for the gift and even its legality. Where it is known that a bequest may be made or there is an offer of a monetary gift you should invariably endeavour to decline explaining that the county council does not allow you to accept such gifts in connection with your work. You should also advise your line manager immediately if such an offer is made or in the event that a bequest is made without your knowledge. Because there is such a range of circumstances under which such gifts and bequests can be made the county council will not take the view that accepting them will necessarily be a disciplinary offence. However, should there be any allegation of impropriety or action which results in the good name of the county council being brought in to disrepute because one of its employees has accepted such a gift, it will be investigated and dealt with under the appropriate policy.

## **12.0 Personal purchases**

12.1 You should be aware of possible conflicts of interest when you buy goods or use the services of firms which have dealings with the county council and follow any departmental procedures relating to the disclosure of any such transactions. You should neither seek, because of your position, nor accept, because of an organisation's dealings with the county council, preferential rates, reductions or any other favourable treatment in the purchase of goods and services. This does not apply to generally available schemes or discount schemes arranged by the county council for all staff.

## **13.0 Procurement of goods and services and disposal of county council property (see also note 2 below)**

13.1 Procurement procedures must be strictly adhered to and you must not accept any inducement or preferential treatment if you are responsible for procuring goods or services for the county council or disposing of surplus property.

13.2 In addition, officers should always be in a position to demonstrate that Best Value has been sought and achieved. Detailed guidance on procurement and tendering is set out in the council's Financial Regulations and Procurement Code.

## **14.0 Use of council resources and equipment**

14.1 Facilities, equipment, vehicles, materials and other resources provided by the county council for use in your work must not be used for any other purpose without permission or appropriate payment eg. photocopying, private telephone calls. Mobile telephones are provided exclusively for business use and must not be used to make private calls. In this context a call 'home' to advise that you have been unavoidably delayed because of work would not be considered a private call.

## **15.0 Overseas travel on official business**

15.1 Any proposal to travel overseas on official business must be approved by the Chief Executive before the travel takes place.

## **16.0 Political neutrality**

16.1 You must serve the county council as a whole unless you are a political assistant appointed in accordance with the Local Government and Housing Act.

16.2 You must follow council policy and operational regulations and must not allow your own personal or political opinions to influence your work.

16.3 Your post may be or become 'politically restricted' if it is considered politically sensitive in accordance with statutory provisions eg. officers who regularly advise any member panel or committee or speak publicly on behalf of the county council, for instance to the media. If your job is politically restricted your political activities, eg. becoming an elected member, normally will be restricted unless it can be shown that such restriction would be unreasonable.

16.4 You must be aware that political restriction will apply to a formerly unrestricted post if a change in responsibilities makes the post politically sensitive. In these circumstances you must seek appropriate advice from your line manager before continuing or becoming involved in any political activity.

## **17.0 Equality issues**

17.1 All members of the community, customers and other employees have a right to be treated fairly and with dignity. You must make yourself aware of and comply with the county council's Equality and Diversity Policies and procedures.

## **18.0 Standards of appearance**

18.1 The county council does not impose particular dress standards but staff are expected to present a reasonable appearance and dress appropriately to the circumstances within their working environment, the nature of work they are undertaking and the levels and types of both internal and external contacts encountered in the normal course of their duties. Where uniform or protective clothing is issued it must be worn as required when at work or representing the county council. When wearing uniform or other items which identify you as an employee of the county council you must maintain appropriate standards of conduct whether or not on duty eg. when travelling to and from work.

## **19.0 Relatives and close personal relationships within the workplace**

19.1 In order to avoid any possible accusation of bias you should endeavour not be directly involved in the appointment, promotion, discipline or other employment decision relating to another employee to whom you are related or with whom you have a close personal relationship. If a situation arises in which you feel you may be in such a position, please seek the advice of your Human Resources Manager.

19.2 If you work in close proximity with service users or other employees to whom you are related or have a close personal connection you must maintain a strictly professional relationship at work. You should also be aware that if any relationship leads to disruption

in the workplace, unacceptable conduct or performance or situations involving undue favouritism or detriment, action will be taken under the appropriate procedure which could lead to you being redeployed or your contract terminated.

## **20.0 Smoke free environment**

20.1 All county council buildings, workplaces and vehicles are smoke free areas. Any breach of the Smokefree Workplaces is a disciplinary, and potentially criminal, offence.

## **21.0 Drugs and Alcohol**

21.1 You must familiarise yourself with the county council's policy on Alcohol, Other Drug and Substance Use particularly in relation to driving, the operation of machinery and the requirement that your ability to undertake your duties is not impaired by the misuse of any substance.

## **22.0 Health and Safety**

22.1 Unsafe working can endanger you, your colleagues and members of the public. You must familiarise yourself with the council's Health and Safety Policy and guidelines for your particular work. You must follow the rules, codes and safe practices they describe including reporting any accidents, incidents or near misses you have at work.

## **23.0 Criminal charges, cautions and convictions**

23.1 You must advise your line manager immediately if you are charged with or cautioned or convicted of any criminal offence whilst you are an employee of the county council. While such proceedings will not necessarily affect your employment, the council needs to be sure there are no implications for its clients, reputation, service delivery or in relation to the role you undertake.

23.2 You must also advise your line manager immediately if you have been arrested or appeared in court and released on bail in circumstances where bail conditions have been applied which could have consequences for your work eg. a carer who is constrained from having contact with the types of client they are employed to look after; a driver who is not permitted to visit a particular location which is on his/her regular route. If you are in any doubt about whether you should report bail conditions, especially where safeguarding could be an issue, you must discuss it with your line manager or HR adviser so that any concerns can be addressed from the outset. Failure to report such conditions would be considered as serious misconduct and could potentially lead to a breach of bail.

## **24.0 Conduct and performance**

24.1 Unacceptable behaviour and/or failure to maintain satisfactory standards of conduct or performance will lead to action being taken against you under the appropriate county

council procedure. This includes specifically the failure to behave at all times in accordance with the county council's stated values.

24.2 You must ensure you understand the requirements of this Code of Conduct and any terms and conditions, rules, standards and requirements that apply to you and your job (see also note 2 below). Any of the examples of unacceptable behaviour listed below may be considered as misconduct or gross misconduct depending on the relevance to your role, your seniority, the seriousness of the act and particular circumstances. Those underlined normally will be considered as gross misconduct. The list is not exhaustive and other unacceptable behaviour not specifically listed nevertheless may be considered as misconduct or gross misconduct:

a) any form of unjustifiable discrimination, harassment, threatening or bullying behaviour eg. on the grounds of race, sex/gender, sexual orientation, marital status, disability, age, religion or belief; whether or not the subject of current legislation;

b) any physical, emotional or sexual abuse of a child or other vulnerable person;

c) possession, displaying, viewing or downloading of offensive materials, playing or downloading games, accessing 'unacceptable' web sites eg. gambling, betting or gaming, in the workplace or via any portable device eg. laptop, mass storage, which is the property of the county council and has been provided in connection with the postholder's work;

d) undertaking private activities during working hours;

e) unpunctuality, misuse of time and time recording, unauthorised absence from work;

f) refusing to comply with reasonable orders and instructions;

g) deliberately causing damage to council property;

h) harming or endangering other persons or property eg. by contravening safety rules;

i) neglect of duty/lack of due care or diligence, disruptive behaviour, poor attitude;

j) fighting, threatening or actual violence towards, physical assault or abuse of another person whilst at work (NOTE: this does not include reasonable physical restraint necessarily carried out in the course of duty);

k) theft, unauthorised removal, misappropriation, improper or unauthorised use of council or other property, systems (including telephones, IT, e-mail and Internet), vehicles, equipment, name or other resources. This may include loss by failing to properly secure or safeguard;

l) failure to report criminal convictions, particularly those which may be relevant to the type of work undertaken eg. driving convictions where the work necessitates driving on county council business, indecent assault where working with vulnerable adults or children;

m) fraudulent or misleading practices and/or omissions in connection with official duties eg. deliberately falsifying council documents, reports etc.;

n) fraudulent or false claims for payment of salary, expenses and/or allowances etc. or seeking financial gain by deception;

o) acts involving bribery or corruption;

p) any action for which it would be appropriate for the council as an employer to take legal proceedings (irrespective of whether such proceedings are taken);

q) sexual misconduct at work;

r) wilfully breaching any county council policy or procedure;

s) drunkenness, being unable to carry out duties through the influence of any substances including drugs, whether or not prescribed, and alcohol, or for any other avoidable reason (nb. it is equally inappropriate for those hosting visitors or working in close proximity to service users such as children and vulnerable adults to have alcohol on their breath even though this may not amount to drunkenness);

t) possession, buying or selling of weapons, illegal substances or materials at work;

u) any breach of trust or security in respect of information or procedures;

v) obtaining or attempting to obtain access to any information (including information held or stored by electronic means) to which the employee is not entitled;

w) any action which may bring the good name of the county council into disrepute;

x) as an employee, public opposition to the stated aims and policies of the county council, criticism or blame of colleagues, council departments or county councillors through any medium including internet 'blogs' or web sites

y) any action unconnected with work which brings in to question your suitability as an employee of the county council; and

z) failing to report serious misconduct, aiding or inciting another employee to undertake any of the above actions or other act of wrongdoing.

**Note 1:**

Personal interests as set out in Paragraph 3 (eg. in contracts/procurement), other potential conflicts of interest and any offer of gifts and/or hospitality as set out in Paragraph 10, other than of a minor 'token' nature, are to be notified in writing to the Assistant Director for Legal and Governance who will include them in the Register of Officers' Interests and ensure that your head of service/line manager are advised of the entry.

**Note 2:**

Under the Bribery Act 2010 it is a criminal offence if a person fails to prevent bribery, bribes another person with the intention of obtaining or retaining a business or a business advantage, or receives a bribe, whether or not unwittingly.

# **MEMBER/OFFICER RELATIONS PROTOCOL**

## APPENDIX 12 – MEMBER/OFFICER RELATIONS PROTOCOL

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## **Member/Officer Relations Protocol**

### **Introduction**

1. The Nolan Committee's Report on Standards of Conduct in Local Government recommended that every Council should adopt a formal protocol setting out guidance for appropriate relationships between Officers and Members. The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.
2. Given the variety and complexity of such relations, this protocol does not seek to be prescriptive in its application. General guidance is offered on some of the issues that most commonly arise or cause concern. It is hoped, therefore, that the approach, which this Protocol adopts will serve as a guide to dealing with those issues that most commonly arise from time to time.
3. This protocol seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. If a Member is unsure about any matter, he/she should contact the Monitoring Officer for appropriate advice or guidance. If any Officer is unsure about any matter he/she should contact their line manager or Chief Officer.
4. This Protocol should be read in conjunction with the Members' and Officers' Codes of Conduct, the Local Authority Code of Practice relating to Publicity, the Council's Constitution and any guidance and/or advice which may, from time to time, be issued by the Monitoring Officer or the Standards and Ethics Committee. Members should also be aware of the Implications for Members which are set out as part of the Council's Whistleblowing and Harassment Policies.

### **Key principles**

5. Both Councillors and Officers are servants of the public and they are indispensable to one another. Their individual responsibilities are, however, distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are employees of the Council and must act in the best interests of the Council as a whole and must not give partisan political advice (unless they are Political Assistants).
6. At the heart of this protocol is the importance of mutual respect, confidence and trust. These are essential for good local government and serve to enhance local democracy. Member/officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.
7. Close personal familiarity between individual Members and Officers can damage professional relationships and can prove embarrassing to other Members and Officers. Situations should be avoided, therefore, that could give rise to suspicion and/or appearance of improper conduct or behaviour. This includes excessive socialising between Members and Officers. Members should also be mindful of the potential power

imbalance between Members and officers (particularly junior officers). Members must also ensure propriety in their personal interactions with officers and be aware of how their actions could be perceived by others, however innocent the intention.

8. Provided these guidelines are observed, there is no reason why there should not be an informal atmosphere between Members and Officers outside formal meetings and events.

9. It is clearly important that there should be close working relationships between Members of all positions and political parties. However, such relationships should never be allowed to become so close or appear so close as to bring into question the individual's ability to deal impartially with others.

10. Any dealings between Members and Officers should be conducted with mutual trust, respect and courtesy and neither party should seek to take unfair advantage of his/her position. A Member may be asked for advice and support by an employee who is one of their constituents. Employees are entitled to seek such assistance in the same way as any other Member of the public. However, Members should be careful not to prejudice the County Council's position in relation to disciplinary procedures or employment matters in respect of an employee. A Member approached for help in such circumstances should first seek advice from the Monitoring Officer.

11. In seeking advice and support, Members should have due regard to the seniority of the Officer with whom they are dealing and recognise that, whilst Officers owe an overriding duty to the Council as a whole, such duties are first owed to their respective line managers and Chief Officers and not to any individual Member. For this reason, Members should not give direct instructions to staff. In these circumstances, any requests should be given to the Chief Officer and not to a more junior Officer.

12. A Member should not raise matters relating to the conduct or capability of an Officer in a manner that is incompatible with the objectives of this Protocol. An Officer has no means of responding to such criticism in public. If any Member feels that he/she has not been treated with the proper mutual trust, respect or courtesy or has any concern about the conduct or capability of an Officer, he/she should raise the matter, in private, with the relevant Officer and if necessary Chief Officer of the Directorate concerned. Any concerns with regard to a Chief Officer should be discussed in private with the Chief Executive. Whispering campaigns against Members and Officers do not project a healthy environment for engendering mutual trust, respect or courtesy and should be avoided.

13. Officers will do their best to give timely responses to Members' enquiries. However, officers should not have unreasonable demands placed on them. Their work priorities are set and managed by senior managers. Members should seek to avoid disrupting officers' work by imposing their own personal priorities.

14. Members must also not pressurise any Officer to change his/her professional opinion on any council business matter or do anything that compromises, or which is likely to compromise, the impartiality of Officers or those who work for, or on behalf of the Council.

15. It is also imperative that Members are clear about the roles of Officers. This will help them avoid getting inappropriately involved in, for example, the internal office

management, discipline and/or other employment related issues, as the actions of Member(s) may be held to be the actions of the Council as an “employer”.

### **Accountability of Members or officers under Scrutiny arrangements**

16. The Council has scrutiny arrangements in place to hold the Cabinet to account in respect of the decisions it makes and ensure that those decisions are arrived at in accordance with the Council's Principles of Decision-Making. Overview and Scrutiny is a key part of the checks and balances to hold the Cabinet to account.

17. There is a leading Overview and Scrutiny Performance Board which will identify areas of the Council's work which should be looked at and how the scrutiny will be carried out. There is also a Health Overview and Scrutiny Committee which has the power to scrutinise local NHS services together with four cross-cutting Overview and Scrutiny Panels covering the following areas:-

- Adult Care and Well Being
- Children and Families
- Economy and Environment
- Corporate and Communities.

18. Subject to paragraph 20 below, the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panels or a Scrutiny Task Group may scrutinise and review decisions made by the Cabinet or actions taken by/or on behalf of the Cabinet or Council and may scrutinise and review the performance of the Council and Cabinet in relation to policy objectives, performance targets and/or particular service areas. As well as reviewing documentation, in fulfilling the scrutiny role it may require the Leader, or any other Member of the Cabinet, Chief Officers and/or any senior officer to attend before it to explain in relation to matters within their remit:-

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

and it is the duty of those persons to attend if so required. However, in exceptional circumstances, if the Member or officer is unable to attend on the required date, then the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or Scrutiny Task Group shall, in consultation with the Member or officer arrange for an alternative date for attendance to take place within a reasonable period.

19. The term ‘senior officer’ means any officer who is employed upon Conditions of Service of the JNC for Chief Officers.

20. Where any Member or officer is required to attend the Scrutiny Member bodies under the provisions of paragraph 18 above, the Chairman of that body or scrutiny lead Member will arrange for the Member or officer to be informed in writing, giving notice of the nature of the item (with reasons) on which he/she is required to attend to give account and giving sufficient notice having regard to whether or not the production of any documentation or report is required.

21. The above Scrutiny Member bodies may not scrutinise an action taken by a Chief Officer under delegated powers which is in furtherance of day to day administration of the service for which the Chief Officer is responsible.

22. When requiring the attendance of an officer from a local NHS body, the Chairman of the Health Overview and Scrutiny Committee will arrange for such a request to be made in writing to the Chief Executive of the body concerned giving notice of the nature of the item (with reasons) on which attendance is required to give account and giving sufficient notice having regard to whether or not the production of any documentation or report is required.

### **Attendance by others at Scrutiny meetings**

23. A Councillor will be notified of any item of business before the above Scrutiny Member bodies which is considered to be of a particular interest to the Councillor representing an electoral division to which that item relates or affects. He/she will be invited to attend the meeting in question, may speak on the item but not vote, and may submit written representations.

24. Scrutiny Member bodies may invite staff and people other than those referred to in paragraph 18 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders, Members and officers in other parts of the public sector, experts and witnesses and shall invite such people to attend. Whilst attendance is usually likely to be optional, there will occasions when attendance is required. In such instances the chairman of the relevant scrutiny body will arrange for such a request to be made in writing to the Chief Executive of the body concerned giving notice of the item (with reason) on which attendance is required to give account and giving sufficient notice having regard to whether or not the production of any documentation or reports is required.

25. In conducting its proceedings the Scrutiny Member bodies will have regard to the following principles:-

- Whilst Scrutiny Member bodies may conduct their business in a tenacious way, they should do so at all times with respect, equity, fairness, dignity and with regard to the principles of natural justice
- All Members of Scrutiny bodies will be given the opportunity to ask questions of the attendees, and to contribute and speak
- It will strive to conduct its business in a consensual, open, responsible and transparent way across the political divides and will seek to avoid expressing views based purely on political considerations
- Its business shall be conducted so as to maximise its efficiency
- It will not seek to hold officers and non-councillors accountable for decisions taken as part of the Member processes
- It will recognise that should any question of officer discipline arise, this will be dealt with through existing procedures for that purpose.

## **Local Members**

26. Local Members have an important role to play in representing the County Council in the electoral divisions, responding to the concerns of their constituents, in meetings with partners and serving on external bodies and organisations.

27. It is essential for the proper running of the Council that Members should be fully informed about matters on which they may be required to make decisions or which affect their electoral divisions.

28. It is the duty of each Chief Officer to ensure that all relevant staff are aware of the requirement to keep local Members informed and that the timing of such information allows Members to contribute to those discussions. Local Members should also be kept informed about matters affecting their divisions during the formative stages of policy development.

29. Issues may affect a single electoral division but others may have a wider impact in which case numerous Members will need to be kept informed.

30. Wherever a public meeting is organised by the Council to consider a local issue, all Members representing the electoral division(s) affected should as a matter of course be invited to attend.

31. Similarly, whenever the Council undertakes any form of consultation exercise, the local Member(s) should be notified at the outset of the exercise.

## **Political Groups/Assistants**

32. Political group meetings, whilst they form an important part in the preliminaries to Council decision making, are not formal decision-making bodies of the County Council and as such are not empowered, even under the Council's new political management arrangements, to make decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as Council decisions and it is essential that Members and Officers understand and interpret them accordingly.

33. Officer support to political groups must not extend beyond providing information and advice in relation to Council business (not party political business). It will normally be appropriate for Officers to participate in discussions within political group meetings in relation to the professional advice they give. However, it is good practice for party political discussions and debates to take place and conclusions to be reached in the absence of Officers, in order to avoid suspicion of impropriety or misunderstanding.

34. Officers must respect the confidentiality of any political group discussions. Any breach of this part of the protocol must be brought to the attention of the Monitoring Officer for consideration.

35. Members shall, at all times, respect the political impartiality of Officers and must not expect or encourage Officers to give a political view on any matter (save for Political Assistants to the political Groups if the Council decides to appoint such - it currently has not appointed any Political Assistants).

36. For the avoidance of doubt, it must be recognised by all that, in discharging their duties, Officers serve the Council as a whole and not exclusively any political Group, combination of Groups or any individual Members.

37. When attendance is requested at political group meetings:

- the request to attend a political Group meeting must be made through and approved by the appropriate Chief Officer
- such a request can only be made in relation to Council business; and Officers will:
  - provide relevant factual advice and assistance;
  - leave during the deliberations of the political Group on the issues;
  - respect the confidentiality of any political Group decisions at which they are present; and
  - not champion, defend, action or spend any resources of the Council, or be held responsible for actioning in any way whatsoever the decisions of the political Group(s), unless and until such decisions have become the formal decisions of the Council.

### **Ceremonial events**

38. The Chairman of the County Council, or in his/her absence the Vice-Chairman, will be the appropriate person to lead County Council ceremonial events and to represent the Council by invitation at ceremonial events of other organisations.

39. Local Members should always be informed of, and where possible, invited to ceremonial events taking place within their own electoral divisions.

40. Any Member taking part in a ceremonial event must not seek disproportionate personal publicity or use the occasion for party political advantage, bearing in mind that the Member is representing the Council as a whole.

### **Access to information and documentation**

41. This part of the protocol should be read in conjunction with the Access to Information Rules which are set out in Appendix 5 to the Constitution. Regard should also be had to the Freedom of Information Act and the rights of Members described in this section of the protocol are supplementary to their rights as Members of the public under that Act.

42. Any Member may request a private and confidential briefing from a Chief Officer on matters of policy which have already been or may be discussed by the Council or within its decision making or advisory process. All such requests should be made to the appropriate Chief Officer. Briefings should remain strictly confidential and are not to be shared with other Members of the Council unless so permitted by the relevant Member.

43. Individual Members may request any Chief Officer (or another senior Officer of the Directorate concerned) to provide them with factual information which is necessary in

pursuance of the proper performance of their duties. Such requests must be reasonable and must also recognise the need for Officers to maintain the distinction between the executive and scrutiny processes. Where information is requested on behalf of a third party the Council will, where possible, deal with such a request in accordance with its normal procedures. On occasions, however, it will be necessary to consider the request under the Freedom of Information or Environmental Information provisions. In all instances information will be supplied provided the Council is not prohibited by law from doing so.

44. Every Member of the Cabinet or Overview and Scrutiny Member body has a specific right to inspect documents relating to the business of that body in accordance with the Access to Information provisions in Appendix 5. In more general terms a Member may have access to any document provided:-

- he/she can demonstrate a reasonable need to see the documents in order to carry out his/her role as a Member (the 'need to know' principle), and
- the documents do not contain "confidential" or "exempt" information as defined by law.

45. The exercise of the "need to know" principle depends upon an individual Member being able to demonstrate that he/she has the necessary "need to know". In this respect, a Member has no right to 'a roving commission' to go and examine documents of the Council. In case of doubt, seek advice from the Monitoring Officer or his staff.

46. Any Council information given to a Member must only be used by the Member for the purpose for which it was requested. Members and Officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required to do so by law. When requested to do so, officers will keep confidential from other Members advice requested by a Member.

## **Correspondence**

47. Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of 'silent copies' should not be employed.

48. Official correspondence on behalf of the Council would normally be sent in the name of the appropriate Officer, rather than in the name of a Member. However, there would be circumstances in which it would be appropriate for correspondence to appear in the name of a Member. For example, a Local Member may deal with correspondence with a local constituent in relation to a local matter in his/her name. Similarly, the Leader of the Council or a Cabinet Member with Responsibility may deal with correspondence concerning his/her area of responsibility in his/her name. Any Member who receives correspondence should consider whether it is appropriate in the circumstances for it to be passed to an Officer for a reply or for him/her to reply in his/her name. Any such correspondence should always have regard to the Council's policies, practices and procedures and any mechanisms, if appropriate, for changing them. A Member is advised to seek advice, as necessary, from Officers before sending any correspondence in his/her own name. Correspondence which creates legal obligations or gives

instructions on behalf of the Council should never be sent out in the name of a Member. Correspondence includes any communication by letter, fax or email.

### **Support services to Members and Party Groups**

49. The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying and access to the Civic Car in accordance with any protocol in place) to Members is to assist them in discharging their duties as a County Councillor. Such support services must therefore only be used on Council business. They should never be used in connection with any party political or campaigning activity or for private purposes.

### **Press and publicity**

50. Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its policies and priorities to electors. In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly local authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a council's activities is, in the words of the Government, to be welcomed.

51. Publicity is, however, a sensitive matter in any political environment because of the impact it may have. Expenditure on publicity can be expensive. It is essential therefore to ensure that local authority decisions on publicity are made properly and in accordance with clear principles of good practice.

52. The Government has issued a Code of Recommended Practice on Local Authority Publicity 2011 and all formal relations with the media must therefore be conducted in accordance with the Council's agreed procedures, the law on local authority publicity, and that Code. If in doubt, Officers and/or Members should initially seek advice from the Council's Research and Marketing Unit. Particular care should be taken with publicity material around election time and Members and officers should follow any guidance issued by the Monitoring Officer and specific advice taken as necessary from him (see paragraph 56).

53. Press releases or statements made by officers must promote or give information on Council policies or services. They will be factual and consistent with Council policy. They cannot be used to promote a party group.

54. Officers will keep relevant Members informed of media interest in the Council's activities especially regarding strategic and contentious matters. Likewise, officers will inform the Council's Research and Marketing Manager of issues likely to be of media interest, or if they are planning to approach the media, since that Team is often the media's first point of contact.

55. If a Member is contacted by, or contacts, the media on an issue he/she should:-

- indicate the capacity in which he/she is speaking (e.g. as Cabinet Member with Responsibility, Local Member, on behalf of the Council, or on behalf of a party group)

- if necessary (and always when he/she would like a media release to be issued), seek assistance from the Council's Communications Unit, and/or relevant senior officer, except in relation to a statement which is party political in nature, in which case the statement should not be issued under the Council's name
- consider the likely consequences for the Council of his/her statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions or pre-determining an issue)
- never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter
- consider whether or not to consult other relevant Members
- take particular care in what he/she says in the run up to local or national elections to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or as a party political activist.

56. Members wishing to publicise themselves or their political parties must do so in an independent capacity without using Council resources, including staff and venues. This is true at all times, but Members must be aware that the periods leading up to elections are particularly sensitive and must be especially careful to ensure that the Council's resources are not used for political publicity purposes. Members and officers should have regard to advice given by the Monitoring Officer, but in summary:

- Once a notice of election has been published, the Council is in what is described as the pre-election period (or 'purdah') and must avoid appearing to influence improperly the electoral process. During its 'purdah' period, the Council should not publish publicity relating to individuals involved directly in the Council's elections, or on controversial issues, or report views or proposals so as to identify them with individual Members or Groups, or issue any publicity which seeks to influence voters
- Premises maintained by the Council must not be used to promote individual politicians or their views for party political advantage at any time. During the 3 months pre-election, Council premises should not host visits which involve any publicity for candidates for election, unless expressly authorised at a senior officer level on behalf of the Council
- To avoid the Council appearing to engage in political publicity, Members should not distribute during the pre-election purdah period the individual Councillor 'postcards' provided by the Council
- For the same reason, Members must avoid using or publicising their 'worcestershire.gov.uk' email addresses or official Council photographs in connection with election publicity.

### **Use of Council resources**

57. The Council provides all Members with services such as typing, printing and photocopying, and goods such as stationery to assist them in discharging their roles as Members of the Council. These goods and services are paid for from the public purse.

They should not be used for private purposes or in connection with party political or campaigning activities.

58. Members should ensure that they understand and comply with the Council's own rules about the use of such resources particularly:

- where facilities are provided in Members' homes at the Council's expense
- in relation to locally-agreed arrangements, e.g. payment for private photocopying; and
- regarding ICT security.

59. Members should not put pressure on staff to provide resources or support which officers are not permitted to give. Examples are:-

- business which is solely to do with a political party
- work in connection with a division or constituency party political meeting
- electioneering
- work associated with an event attended by a Member in a capacity other than as a Member of the Council
- work in connection with another body or organisation where a Member's involvement is other than as a Member of the Council
- support to a Member in his or her capacity as a councillor of another authority.

### **Member Compact /role description**

60. To assist Councillors to fulfil their duties and responsibilities effectively, a Councillor Compact setting out a Councillor's commitment alongside an indication of the support a Councillor can expect to receive from the Council has been produced as is included alongside this Protocol. Members will be asked to agree the Compact when accepting their office as Councillor.

61. Appropriate role descriptions have also been produced and follow this protocol below.

### **Sanctions for breach of Worcestershire's Code of Conduct for Members and this general guidance**

62. Complaints about any breach of this protocol by a Member should be referred to the Monitoring Officer or the relevant political Group Leader and may require consideration by the Standards and Ethics Committee. Complaints about any breach of this protocol by an Officer may be referred to the relevant Chief Officer, the Chief Executive or Monitoring Officer.

## **Interpretation**

63. Questions of interpretation of this Protocol will be determined by the Monitoring Officer.

## **Councillor Compact 2017**

To enable you to effectively carry out your role as a County Councillor you will be provided with detailed information and support.

In agreeing to this Compact, your commitment is to:-

- Uphold the good reputation of the Council and its high ethical standards
- Sign a Declaration of Acceptance of Office in which you agree to abide by the Council's Code of Conduct for Councillors and Constitution
- Undertake to abide by the Member/Officer Relations Protocol
- Actively undertake the role expected of you as a Councillor, as set out in the role description for all County Councillors, and any other roles to which you are appointed
- Make proper use of any County Council resources made available to you (including any allowances provided for this purpose) and abide by the Council's ICT protocols
- Spend sufficient time per week on Council business such as attending meetings, keeping up to date by reading the information circulated to you, carrying out research and dealing with issues raised by your local community or individual constituents. (The time spent will vary depending on the size of your Division and any Special Responsibilities you have been allocated)
- Seek to develop your skills by actively participating in those Development Opportunities identified either for you personally or for the wider Council membership
- Provide your contact details, which will be made publicly available on our website.

In return you can expect from the Council:-

- A Welcome Day and Induction programme following the Election
- Regular briefing sessions to keep you informed of key developments involving the Council
- Access to Personal Development opportunities (either tailored to your individual needs or as part of your wider Council membership)
- Support for your attendance at appropriate external development opportunities and seminars and conferences
- To have your access needs recognised and to be treated fairly and with respect, dignity and understanding
- The dedicated assistance of a Member Support Team with additional (more specialised) help, advice and support from a network of County Council officers
- A range of support to help you with your role (including the Councillors' portal, Induction Pack, Business Cards, headed paper, name badge etc).
- A Basic Allowance. A Special Responsibility Allowance is also paid for those Councillors who hold particular positions of responsibility
- The provision of ICT equipment to assist in meeting your ICT needs.
- Travel, Subsistence (out of County only) and Carers' Allowances for claims in line with the Members' Allowances Scheme as approved by Council
- To be kept informed on developments within your electoral division.

## MEMBER ROLE DESCRIPTIONS

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## **COUNTY COUNCILLOR**

The Council is made up of 57 Councillors who represent 52 electoral divisions. Five Divisions have 2 Councillors representing them, while the remaining 47 will be represented by one Councillor each. In addition to the local representational role which all councillors undertake, councillors will participate in the political management of the Council and some may hold positions of responsibility in the political structures of the Council. Separate role descriptions exist which set out the key duties and responsibilities expected of these position holders

### **ROLE DESCRIPTION**

#### Main Purpose of Role

- To represent/champion the interests of the community, business and constituents residing or working in a particular County Council electoral division
- To contribute to the political management of the Council and undertake any other role allocated in respect of either Executive/Non Executive, Overview and Scrutiny or quasi-judicial/appellate functions
- To undertake the role of Corporate Parent in respect of those Children in the county for whom the Council has a duty to act.

#### Duties and Responsibilities

- To champion/represent the interests of those communities and businesses and of all constituents (irrespective of whether or not they voted for the Councillor or did not vote at all)
- To represent the interests of an individual constituent as a champion or advocate
- To develop an understanding of and impact on the local community of those key County Council strategic and service plans developed by the Council together with those developed by other external partners
- To develop an understanding of the County Council's Complaints Procedures, together with those of the local District Council, the Police Authority, other public agencies and the Local Government Ombudsman
- To develop effective relationships with key individuals and partners in the division (e.g. MP, MEP, District and Town and Parish Councillors, key County and District Council officers and Leaders of the community, business and other relevant local organisations)
- To seek to secure the commitment of those individuals and partners in shaping and delivering a shared vision for the community
- To bring forward proposals supported by the community for securing improvements to the social, environmental or economic well-being and the overall quality of life within the councillor's own electoral division

- To feedback, where appropriate, decisions and issues concerning the division to community and business interests and individual constituents and to bring forward any views into the County Council's processes
- To promote the effective use of any resources allocated to the area by the Council and/or partner organisations
- To attend, where they exist, Town/Parish Council meetings, community liaison and other public meetings arranged within the division
- To attend and participate in meetings within the Council's political structures
- To participate, as appropriate, in the formulation of County Council policies and scrutiny of practices and service delivery
- To participate, as appropriate, in performing those regulatory and appellate functions for which the Council is responsible
- To carry out any watchdog/advocacy/champion role (if established and assigned)
- To participate in the Council's strategy to achieve best value and continuous improvement in the delivery of all its services
- To contribute to and influence the work of any other external organisation on which the Councillor is appointed to represent the Council and to make arrangements to feed back on that organisation's deliberations
- To participate in any training and development initiatives which are either a constitutional requirement or which have been identified as a development opportunity in an individual Councillor's Personal Development Plan
- In undertaking, their duties, to observe the principles set out in the Code of Conduct for Councillors, the Member/Officer Relations Protocol and any other codes and protocols adopted by the Council
- To carry out the role in accordance with the commitments set out in the Councillor Compact.

### **Conventions and protocols**

- To enable Councillors to effectively fulfil their duties and responsibilities a Councillor Compact setting out a Councillor's Commitment alongside an indication of the support a Councillor can expect to receive from the Council has been produced and accepted by all Councillors. Additionally all Councillors:-
  - can expect to be briefed, informed and involved in respect of any issue or initiative affecting their division
  - have certain rights of access to information held by the County Council. Councillors should, however, recognise the need to respect any confidentiality of information made available to them to fulfil their responsibilities and respect the

privacy of individuals

- will not involve themselves as a local member in any matter which relates to another Councillor's electoral area without his/her prior knowledge and consent
- may not serve (or act as a substitute) on the Planning and Regulatory Committee unless they have undertaken suitable training
- who serve on the Planning and Regulatory Committee must abide by the Code of Good Practice in relation to Planning Matters.

#### Accountability

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is ultimately through the political and electoral process but will also be subject to any Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

#### General Duties

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

#### Notes

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all members, employees, service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

### **CHAIRMAN OF THE COUNTY COUNCIL**

The Chairman of the County Council will be elected by the Council annually.

#### **ROLE DESCRIPTION**

##### Main Purpose of Role

In addition to the duties and responsibilities expected to be undertaken by all councillors, to provide visionary and charismatic ceremonial and civic leadership which inspires trust in others, working across political and Council boundaries to foster communication and encourage co-operation.

##### Duties and Responsibilities

- To be the Civic Leader of Worcestershire
- To promote as widely as possible the interests and reputation of the County Council and Worcestershire as a whole and to act as an ambassador for both
- To undertake civic, community and ceremonial functions
- To shape a culture of excellence and act as a role model for appropriate behaviour, ethical practice and democratic process
- To uphold and promote the purposes of the constitution
- To preside over meetings of the Council so that its business can be carried out fairly and efficiently and with regard to the rights of councillors and the interests of the community
- To ensure that the Council meeting is a forum for debate for matters of concern to the local community and where councillors who do not serve on the Cabinet may hold the Cabinet to account
- To determine any matter referred to him/her in relation to matters requiring an urgent decision pursuant to paragraph 17.16 of Appendix 4 (Call-in), paragraph 16 of Appendix 5 (urgent key decisions not in Forward Plan) or paragraph 4.1 of Appendix 6 (decisions outside budget and policy framework) of the Council's constitution
- In the capacity of Chairman of the Council, to serve on any other bodies either within or outside the council as appropriate or attend related events and conferences.

### **Conventions/protocols**

- The Chairman may not be appointed to serve on the Cabinet
- The Chairman may not concurrently be the Chairman of any other committee, panel or member body (as defined in the Council's Procedural Standing Orders and for the avoidance of doubt this does not prevent Chairmanship of SACRE)
- The Chairman will, in carrying out his/her duties, conduct himself/herself without regard to party political considerations and will only express views which are in accordance with the Council's policies, unless he/she makes it clear that such views are entirely personal.

### **Accountability**

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is ultimately through the political and electoral process but will also be subject to any Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

## **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

## **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

## **VICE-CHAIRMAN OF THE COUNTY COUNCIL**

The Vice-Chairman of the County Council will be appointed by the Council annually.

## **ROLE DESCRIPTION**

### **Main Purpose of Role**

In addition to the duties and responsibilities expected to be undertaken by all councillors, in his/her absence, to undertake those duties expected of the Chairman of the County Council and encompassed in the role description for that position.

### **Duties and Responsibilities**

- To deputise, as necessary, for the Chairman of the Council
- To undertake specific tasks and responsibilities as requested by the Chairman
- To share and support in general, the full workload of the Chairman
- To work actively with the Chairman to manage the work of the Council meeting.

### **Conventions/protocols**

- The Vice-Chairman may not be appointed to serve on the Cabinet
- The Vice-Chairman may not concurrently be the Chairman of any other committee, panel or member body (as defined in the Council's Procedural Standing Orders and for the avoidance of doubt this does not prevent Chairmanship of SACRE)
- The Vice-Chairman will, in carrying out his/her duties, conduct himself/herself without regard to party political considerations and will only express views which are in accordance with the Council's policies, unless he/she makes it clear that such views are entirely personal.

## **Accountability**

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is ultimately through the political and electoral process but will also be subject to the Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

## **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

## **Notes**

The duties described in this role description must be carried out in a manner which promotes equality and opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

## **LEADER OF THE COUNTY COUNCIL**

The Leader of the Council is elected to that position by the County Council for the life of the Council. The Leader of the Council will chair the Cabinet.

The Leader holds responsibility for the exercise of executive functions and appointments to the Cabinet. The Cabinet collectively holds responsibility for and takes any necessary decisions on executive functions for which it has responsibility unless the Leader has delegated authority to individual Cabinet Members or officers.

The Leader of the Council will normally be the leader of the political group forming or being part of the ruling administration of the Council. The Leader can be removed by Council.

## **ROLE DESCRIPTION**

### **Main Purpose of Role**

In addition to the duties and responsibilities expected to be undertaken by all Councillors, to:

- To bring strong, fair and visible political leadership and drive to the community and the Council in designing and developing solutions that meet the needs and aspirations of the whole community and
- Ensure the effective operation of the Council's constitutional and political structures, including the Cabinet, the proper and effective provision of scrutiny and an effective representational role for all Councillors.

## **Duties and Responsibilities**

- To lead, taking into account input and advice from any overview and scrutiny process, local partnerships, stakeholders and any other persons as appropriate:
- The community planning process and search for best value
- The development of effective corporate policies to enable the Council to develop high quality services to the people of Worcestershire and to promote the social, economic and environmental wellbeing of the county.
- The preparation and review of revenue and capital budgets
- To lead in ensuring that the Council's strategies, plans, objectives and targets are monitored, implemented and achieved
- To lead in seeking to achieve the Council's commitment to continuous improvement
- To ensure that the Council is open and responsive to the community, so that accountability is seen to operate, not least through the scrutiny process
- To attend, if required, the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or a Scrutiny Task Group, to be held to account and to be questioned
- To uphold the reputation of the Council effectively, taking a lead on media relations
- To Chair the Cabinet and manage its business/work programme
- To ensure that decisions are taken properly, openly and, where appropriate, publicly and that key decisions are properly programmed and subject to effective public consultation
- To ensure that proposals are made and decisions taken within appropriate timescales and in accordance with the Council's budget and policy framework and any other appropriate legislation
- To arrange for the publication of the Council's Forward Plan
- To lead on the implementation of the Member Development Strategy which aims to ensure that Members are properly equipped to carry out their roles
- To ensure that the Council promotes equality of opportunity, dignity and due respect to all Members, employees, service users, partners and constituents and is consistent with the Council's Equality and Diversity Policy
- To ensure the effective management of the delivery of services and review the effectiveness of the Council's organisation and management processes
- To develop and maintain a good relationship with the Chief Executive of the Council and other officers, providing the conduit between the political and officer groups and setting an example to the whole organisation

- To represent the views of his/her Group in relation to any matter on which officers seek consultation and guidance
- To carry out any prescribed role in accordance with any Councillors' Review Scheme in his/her capacity as a leader of a political group
- To provide effective leadership and management of and communications within his/her own group and to ensure that members of his/her group comply with local and national codes of conduct and protocols governing member conduct and behaviour and where necessary to deal with any breaches of these codes or protocols
- To nominate Council Members from his/her political group to serve on all appropriate member bodies, including, as appropriate, other outside bodies
- To provide effective liaison between all political groups
- To take on an ambassadorial role and represent by virtue of his/her position, the Council and community on countywide, regional and national bodies and national and international events relating to, or organised by those bodies
- If deemed appropriate to object to any decision of the Council taken in accordance with the Budget and Policy Framework procedure rules
- On a programmed basis to report annually to the Council, and give through the report from Cabinet details of any Special Urgency decisions taken in the preceding three months.

### **Conventions and protocols**

The Leader of the Council may not be a member of the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or Scrutiny Task Group established to undertake a specific scrutiny exercise. Those scrutiny bodies have the right to hold the Leader to account and require him/her to attend and be questioned.

### **Accountability**

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is ultimately through the political and electoral process but will also be subject to any Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

### **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

## **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

## **DEPUTY LEADER OF THE COUNTY COUNCIL**

The Leader will appoint a Deputy Leader who will serve on the Cabinet.

The Cabinet collectively holds responsibility for and takes any necessary decisions on executive functions for which it has responsibility. The Deputy Leader does not take decisions individually on behalf of the Cabinet.

## **ROLE DESCRIPTION**

Main purpose of role

In addition to the duties and responsibilities expected to be undertaken by all Councillors, to, in the absence of the Leader of the Council, undertake those duties expected of the Leader and encompassed in the role description for that position.

Key Duties and Responsibilities

- To deputise, as necessary, for the Leader of the Council
- To be responsible for specific tasks and issues as determined by the Leader
- To share and support in general, the full workload of the Leader
- To carry out any prescribed role in accordance with the Councillor Review Scheme
- To work actively with the Leader to manage the work of the Cabinet
- To undertake the responsibilities, if required, of a Cabinet Member with Responsibility.

## **Conventions/protocols**

The Deputy Leader of the Council may not be a member of the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or Scrutiny Task Group established to undertake a specific scrutiny exercise. Those scrutiny bodies have the right to hold the Deputy Leader to account and require him/her to attend and be questioned.

## **Accountability**

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is ultimately through the political and electoral process but will also be subject to any Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

## **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

## **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

## **CABINET MEMBER WITH RESPONSIBILITY**

The Leader will appoint Members of the Cabinet and will decide on the number of areas of responsibility and the allocation of those areas to Members of the Cabinet (each known as a Cabinet Member with Responsibility).

The Cabinet collectively holds responsibility for and takes any necessary decisions on executive functions for which it has responsibility. The Cabinet Member with Responsibility cannot take decisions individually on executive functions for which he/she has responsibility unless specifically so authorised.

## **ROLE DESCRIPTION**

Main Purpose of Role

In addition to the duties and responsibilities expected to be undertaken by all councillors:

- To hold political responsibility within the scope of the area assigned
- To provide political leadership in the formulation of strategies and plans within his/her area of responsibility, the achievement of best value and in the setting of objectives and targets prior to the approval by Cabinet and/or Council.

## **Duties and Responsibilities**

- To provide political leadership in ensuring that service strategies, plans, objectives and targets within his/her area of responsibility are monitored, implemented and achieved
- To remain accountable and answerable to the Council in relation to his/her area of responsibility
- To carry out any prescribed role in accordance with any Councillor Review Scheme
- To take responsibility for any cross-cutting issues allocated by the Leader of the Council
- On a programmed basis, to report every 2 years regularly to the Council setting out progress achieved in the implementation of the service plan within his/her area of responsibility and outline any proposed developments or current issues and activity within his/her area
- At meetings of the Cabinet normally to present/speak to and to move any necessary motions in relation to his/her areas of responsibility
- To attend, if required, the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or Scrutiny Task Group established to undertake a specific scrutiny exercise to be held to account for matters within his/her area of responsibility and to be questioned
- To advise the Cabinet on how to respond to a scrutiny report relating to his/her area of responsibility
- To be the principal political spokesperson for his/her area of responsibility
- To engender a culture of 'no surprises' for Local Members by:-
  - considering whether any particular area of policy or issue specifically affects a particular Member's electoral division
  - briefing relevant Local Members at the earliest opportunity and in any event making every endeavour to do so before any matter is considered by the Cabinet or action to be taken becomes public
  - keeping a Local Member informed about and where practicable inviting the Local Member to intended visits or events within the member's electoral division
  - being aware that if a media enquiry relates to a specific electoral division and requires a political response that journalists are advised to also contact the relevant Local Member
- To represent, by virtue of his/her position, the Council on local, regional or national bodies or at related events and conferences
- To attend or be represented at such civic and ceremonial functions as deemed appropriate.

## Conventions/Protocols

- A Cabinet Member with Responsibility may not be a member of the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or a Scrutiny Task Group established to conduct a specific scrutiny exercise
- The Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panel or Scrutiny Task Group established to undertake a specific scrutiny exercise has the right to hold a Cabinet Member with Responsibility to account and require him/her to attend and be questioned by it
- The Cabinet Member with Responsibility remains accountable to the Leader and Council in relation to the scope of the area assigned to him/her
- Questions at Council will be answered by the Cabinet Member with Responsibility
- The Cabinet Member with Responsibility may, on 'as needs' basis, establish ad hoc member groups to assist him/her, on an advisory basis, with policy development or on difficult issues facing him/her:
  - The Cabinet Member with Responsibility will decide in conjunction with the relevant Chief Officer(s) in relation to a particular policy area or difficult issue, whether the Cabinet Member with Responsibility would benefit from the input of a wider group of interested members
  - The size of a group would depend on the number of Members who could make a real contribution
  - It is intended that any such groups would be cross-party although the principle of proportionality will be applied flexibly
  - The key principle for membership of a group will be interest, experience and commitment to a policy area or issue concerned
  - The Cabinet Member with Responsibility may suggest particular members to be part of a group, although the participation of particular members will be with the knowledge/approval and nomination of the relevant Group Leader
  - The Cabinet Member with Responsibility may wish to consider including in a group any member having an advocacy/watchdog role in a particular area or issue (if established)
  - The Assistant Director for Legal and Governance will record the establishment and composition of such a group
  - A group will carry out its work and meet on an informal basis
  - Chief Officers, or their nominated representatives, will be involved with and will support the Cabinet Member with Responsibility and the group's work
  - Members of a group will not serve on scrutiny body which is dealing with the subject matter considered by the group.

## **Accountability**

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is ultimately through the political and electoral process but will also be subject to any Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

## **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

## **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

## **OPPOSITION GROUP LEADER**

Each Political Group (i.e. with at least 2 members) other than that forming the administration on the Council will appoint one of its members to the position of opposition Group Leader/Co-ordinator.

## **ROLE DESCRIPTION**

### **Main Purpose of Role**

In addition to the duties and responsibilities expected to be undertaken by all Councillors, to provide leadership of the County Council's opposition group (or other group not forming part of the administration).

### **Duties and Responsibilities**

- To provide overall leadership of the County Council's opposition Group (or other group not forming part of the administration)
- To be the principal spokesperson for his/her Group
- To ensure that members of his/her Group comply with local and national codes of conduct and protocols governing member conduct and behaviour and where necessary to deal with any breaches of these codes or protocols

- To provide, as appropriate, alternatives or amendments to the County Council's policies, strategies and budgets
- To lead his/her Group in the effective scrutiny of the County Council's policies, strategies and budgets, the performance against targets and objectives set, and the achievement of best value
- To ensure good communications within his/her group
- To inform effective opposition, as appropriate
- To represent the views of his/her Group in relation to any matter on which officers seek consultation and guidance
- To carry out any prescribed role in accordance with any Councillors' Review Scheme
- To maintain effective relationships with the Leader of the Council, other members of the Council, the Chief Executive, Directors and other relevant senior officers, and to meet them as required to ensure they are sufficiently and effectively briefed on service and relevant corporate areas and any other relevant issues pertaining to the County Council
- To ensure effective contact with community leaders and other external stakeholders, as appropriate, and represent their views in ensuring effective opposition to the ruling administration, as appropriate
- To nominate members of his/her Group to serve on all appropriate member bodies, including as necessary other outside bodies
- To represent, by virtue of his/her position, the council on countywide, regional and national bodies and national and international events relating to, or organised by, those bodies
- If deemed appropriate to take personal responsibility for 'shadowing' one or more service or corporate area of the County Council's activity
- If deemed appropriate to appoint members of his/her group to 'shadow' particular service or corporate areas of the County Council's activity.

### **Conventions/Protocols**

- The Chairman of the Overview and Scrutiny Performance Board will not be a member of a political Group forming part of the administration and will not be the leader of any Group.

### **Accountability**

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is ultimately through the political and electoral process but will also be subject to the

Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

### **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

### **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

### **CHAIRMAN OF THE OVERVIEW AND SCRUTINY PERFORMANCE BOARD**

The Council has established an Overview and Scrutiny Performance Board to manage and co-ordinate the Council's Scrutiny activities. The Committee will comprise a Chairman and other County Councillors who will be designated as Scrutiny Lead Members all appointed by the Council. One of them will be the Chairman of the Health Overview and Scrutiny Committee and four of them will be the Chairmen of Overview and Scrutiny Panels.

The Chairman of the Board will be appointed by the County Council.

### **ROLE DESCRIPTION**

Main Purpose of Role

In addition to the duties and responsibilities expected to be undertaken by all Councillors, to lead the management and co-ordination of the Council's Scrutiny activities.

### **Duties and Responsibilities**

- To Chair the Overview and Scrutiny Performance Board and manage its business in an efficient manner, ensuring effective engagement by all members, partners and participants
- To provide leadership and direction both for the Board and scrutiny arrangements within the Council
- To promote the role of Overview and Scrutiny both within and outside the Council

- To engender a culture for scrutiny in which party political considerations are put aside, focussing instead on achieving the best outcomes for the community
- To lead the Board in conducting its business with respect, equality, fairness, dignity and with regard to the principles of natural justice
- To lead the Board in conducting its business in a consensual open, responsible and transparent way
- To lead and encourage members of the Board in the formulation of a scrutiny programme which is manageable, balanced and meets the criteria for chosen topics
- To lead and encourage the Board in challenging the corporate performance of the Council and in using performance monitoring information to inform scrutiny priorities
- To ensure that individual scrutiny exercises are conducted in an appropriate and timely manner
- To take a lead role in evaluating the effectiveness of the outcomes of individual Scrutiny exercises
- To ensure the production of high quality reports which are well drafted, focused, relevant and timely and are well presented to the Cabinet and Council, the public, other stakeholders and the media
- To present any reports produced by the Board to the Cabinet and / or Council
- To report annually to Council as part of the overview and scrutiny arrangements
- To take an active role in monitoring the work of the Cabinet, and reviewing the Forward Plan
- To develop and maintain an effective working relationship and links with the Cabinet and its members
- To develop and maintain an effective working relationship and links with the Vice Chairman and other members of the Overview and Scrutiny Performance Board, non-Councillors involved in the scrutiny arrangements, including external stakeholders and partners; the overview and scrutiny officer team and scrutiny liaison and other relevant officers
- To bring forward suggestions to ensure the future development of the Council's scrutiny practices
- To act as the public face/spokesperson for the Board and the Council's scrutiny arrangements
- To determine any matter referred to him/her in relation to matters requiring an urgent decision pursuant to paragraph 17.16 of Appendix 4, (call-in), paragraph 16 of Appendix 5 (urgent key decisions not in Forward Plan) or paragraph 4.1 of Appendix 6 (decisions outside budget and policy framework) of the Council's constitution

- To consider the training and development requirements of those Members engaged in scrutiny and bring forward suggestions for meeting these needs.

### **Conventions/Protocols**

- The Chairman of the Overview and Scrutiny Performance Board will not be a member of a political group forming part of the ruling administration and will not be the Leader of any Group
- The 4 Overview and Scrutiny Panels will be chaired by specific members of the Overview and Scrutiny Performance Board. Any Scrutiny Task Group will be led by an identified member of the Overview and Scrutiny Performance Board and he/she will chair any meetings of the Group. The Chairman of the Overview and Scrutiny Performance Board is not expected to lead a Scrutiny Task Group carrying out in-depth scrutinies (but may lead a Scrutiny Task Group carrying any other specific role or function within the remit of the Overview and Scrutiny Performance Board)
- No Member may be involved in scrutinising a decision with which he/she has been directly involved.

### **Accountability**

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is ultimately through the political and electoral process but will also be subject to any Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

### **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

### **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

## **VICE-CHAIRMAN OF THE OVERVIEW AND SCRUTINY PERFORMANCE BOARD**

The Council has established an Overview and Scrutiny Performance Board to manage and co-ordinate the Council's Scrutiny activities. The Board will comprise a Chairman and other County Councillors who will be designated as Scrutiny Lead Members

appointed by the Council. One of them will be the Chairman of the Health Overview and Scrutiny Committee, and four of them will be the chairmen of the Overview and Scrutiny Panels.

The Vice-Chairman of the Board will be appointed by the County Council

## **ROLE DESCRIPTION**

### **Main Purpose of Role**

In addition to the duties and responsibilities expected of the Board to be undertaken by all Councillors, to undertake in the absence of the Chairman of the Board those duties expected of the Chairman and encompassed in the role description for that position

### **Duties and Responsibilities**

- To deputise for the Chairman of the Board
- To undertake specific tasks and responsibilities as requested by the Chairman of the Board
- To share and support in general, the full workload of the Chairman of the Board
- To work actively with the Chairman to manage the work of the Board.

### **Conventions/protocols**

- No member may be involved in scrutinising a decision with which he/she has been directly involved.

### **Accountability**

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is ultimately through the political and electoral process but will also be subject to any Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

### **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

## **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

## **CHAIRMAN OF AN OVERVIEW AND SCRUTINY PANEL**

- The Council has established an Overview and Scrutiny Performance Board to manage and co-ordinate the Council's Scrutiny activities. The Committee will comprise a Chairman and other County Councillors who will be designated as Scrutiny Lead Members appointed by the Council. One of them will be the Chairman of the Health Overview and Scrutiny Committee
- The Council has established 4 Overview and Scrutiny Panels
- Each Overview and Scrutiny Panel will comprise of members as determined by Council and will be chaired by a member of the Overview and Scrutiny Performance Board
- The chairman of the respective Overview and Scrutiny Panels will be appointed by the Council.

## **ROLE DESCRIPTION**

### **Main Purpose of Role**

In addition to the duties and responsibilities expected to be undertaken by all Councillors, to lead one of the Overview and Scrutiny Panels.

### **Duties and Responsibilities**

- To chair meetings of the Overview and Scrutiny Panels and manage its business in an efficient manner ensuring effective engagement by all members, partners and participants
- To provide leadership and direction for the Panel
- To promote the role of Overview and Scrutiny both within and outside the Council
- To engender a culture for scrutiny in which party political considerations are put aside, focussing instead on achieving the best outcomes for the community
- To ensure that the Panel conducts its business with respect, equality, fairness, dignity and with regard to the principles of natural justice
- To ensure that the Panel conducts its business in a consensual open, responsible and transparent way

- To lead in the planning of those scrutiny exercises commissioned by the Overview and Scrutiny Performance Board.
- To ensure that the Panel has a proper understanding of the topic under review, stays focussed on the topic under discussion and makes the best use of resources, especially time, in carrying out a scrutiny exercise
- To ensure that scrutiny exercises are concluded in an appropriate and timely manner
- To ensure the production of high quality reports which are well drafted, focused, relevant and timely
- To lead arrangements for monitoring the performance and budgets relevant to the Panels specific area of responsibility
- To develop and maintain effective working relationships and links with other members of the Panel and other members serving on Overview and Scrutiny Panels, the Chairman and other members of the Overview and Scrutiny Performance Board, relevant members of the Cabinet, any non-councillors serving on Overview and Scrutiny Panels Scrutiny Task Groups, external stakeholders and partners, the overview and scrutiny officer team and scrutiny liaison and other relevant officers
- To act as the public face/spokesperson for this area of scrutiny
- To contribute to suggestions for the future development of the council's scrutiny practices.

### **Conventions/Protocols**

- The Chairman of an Overview and Scrutiny Panel will serve on the Overview and Scrutiny Performance Board
- No member may be involved in scrutinising a decision with which he/she has been directly involved.

### **Accountability**

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is ultimately through the political and electoral process but will also be subject to any Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

### **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

## **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

## **CHAIRMAN OF THE HEALTH OVERVIEW AND SCRUTINY COMMITTEE**

- The Council has established an Overview and Scrutiny Performance Board to manage and co-ordinate the Council's Scrutiny activities. The Board will comprise a Chairman and other County Councillors who will be designated as Scrutiny Lead Members appointed by the Council. One of them will be the Chairman of the Health Overview and Scrutiny Committee and four others will chair the Overview and Scrutiny Panels.
- The Health Overview and Scrutiny Committee will comprise County Councillors together with one representative from each of the District Councils in Worcestershire.

## **ROLE DESCRIPTION**

Main Purpose of Role

In addition to the duties and responsibilities expected to be undertaken by all Councillors, to lead the Health Overview and Scrutiny Committee.

## **Duties and Responsibilities**

- To chair meetings of the Health Overview and Scrutiny Committee and manage its business in an efficient manner ensuring effective engagement by all members, partners and participants
- To provide leadership and direction for the Committee
- To promote the role of Overview and Scrutiny both within and outside the Council
- To engender a culture for scrutiny in which party political considerations are put aside, focussing instead on achieving the best outcomes for the community
- To ensure that the Committee conducts its business with respect, equality, fairness, dignity and with regard to the principles of natural justice
- To ensure that the Committee conducts its business in a consensual open, responsible and transparent way
- To lead the production of an annual overview and scrutiny plan (work programme) that has been discussed and shared with local health bodies

- To lead in the planning of those scrutiny exercises included in the annual work programme
- To lead in the formulation of any response to consultations undertaken by NHS bodies
- To ensure that the Committee has a proper understanding of the topic under review, stays focussed on the topic under discussion and makes the best use of resources, especially time, in carrying out a scrutiny exercise
- To ensure that scrutiny exercises are concluded in an appropriate and timely manner
- To ensure the production of high quality reports which are well drafted, focused, relevant and timely and are submitted to the respective NHS body and, if appropriate, to the Cabinet and/or Council
- To develop and maintain effective working relationships and links with other members of the Committee and other members serving on Overview and Scrutiny Panels, the Chairman and other members of the Overview and Scrutiny Performance Board, relevant members of the Cabinet, any non-Councillors serving on Overview and Scrutiny Panels and Scrutiny Task Groups, external stakeholders and partners, the overview and scrutiny officer team and scrutiny liaison and other relevant officers
- To act as the public face/spokesperson for this area of scrutiny
- To contribute to suggestions for the future development of the council's scrutiny practices.

### **Conventions/Protocols**

- The Chairman of the Health Overview and Scrutiny Committee (HOSC) will serve on the Overview and Scrutiny Performance Board
- The position of Vice-Chairman will be held by one of those District Council representatives serving on HOSC as appointed by Council
- No member may be involved in scrutinising a decision with which he/she has been directly involved.

### **Accountability**

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is ultimately through the political and electoral process but will also be subject to any Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

## **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

## **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

## **SCRUTINY LEAD MEMBER**

The Council has established an Overview and Scrutiny Performance Board to manage and co-ordinate the Council's Scrutiny activities. The Board will comprise a Chairman and other County Councillors who will be designated as Scrutiny Lead Members appointed by the Council. One of them will be the Chairman of the Health Overview and Scrutiny Committee and four others will chair the Overview and Scrutiny Panels.

Scrutiny Lead Members will lead Scrutiny Task Groups established by the Overview and Scrutiny Performance Board to conduct scrutinies identified by it or to carry out any other specific role or function within the remit of the Overview and Scrutiny Performance Board.

## **ROLE DESCRIPTION**

### **Main Purpose of Role**

In addition to the duties and responsibilities expected to be undertaken by all Councillors, to lead specific scrutiny exercises identified by the Overview and Scrutiny Performance Board or to carry out any other specific role or function within the remit of the Overview and Scrutiny Performance Board.

### **Duties and Responsibilities**

- To lead and manage specific scrutiny exercises (as commissioned by the Overview and Scrutiny Performance Board) in an efficient manner ensuring effective engagement by all members and participants
- To provide leadership and direction to a specific Scrutiny exercise or subject area so allocated
- To promote the role of Overview and Scrutiny both within and outside the Council

- To engender a culture for scrutiny in which party political considerations are put aside, focussing instead on achieving the best outcomes for the community
- To ensure that Scrutiny Task Groups conduct business with respect, equality, fairness, dignity and with regard to the principles of natural justice
- To ensure business is conducted in a consensual open, responsible and transparent way
- To lead and encourage members to bring forward suggestions for scrutiny which can be submitted for consideration by the Overview and Scrutiny Performance Board
- To lead the planning of those scrutiny exercises allocated by the Overview and Scrutiny Performance Board
- To ensure that members of respective Scrutiny Task Groups have a proper understanding of the topic under review, stay focussed on the topic under discussion and make the best use of resources, especially time, in carrying out a scrutiny exercise
- To ensure that scrutiny exercises are concluded in an appropriate and timely manner
- To ensure the production of high quality reports which are well drafted, focused, relevant and timely and are well presented to the Overview and Scrutiny Performance Board, the Council, Cabinet, the public, other stakeholders and the media
- To present any reports produced to the Overview and Scrutiny Performance Board, the Cabinet and/or Council
- To develop and maintain effective working relationships and links with other members of the Task Group, the Chairman and other members of the Overview and Scrutiny Performance Board, relevant members of the Cabinet, any non councillors serving on Scrutiny Task Groups, external stakeholders and partners, the overview and scrutiny officer team and scrutiny liaison and other relevant officers
- If deemed appropriate, to shadow particular service or corporate areas of the County Council's activity and to act as the public face/spokesperson for a particular area of scrutiny
- To contribute to suggestions for the future development of the council's scrutiny practices.

### **Conventions/Protocols**

No member may be involved in scrutinising a decision with which he/she has been directly involved.

### **Accountability**

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is

ultimately through the political and electoral process but will also be subject to any Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

## **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

## **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

## **SCRUTINY MEMBER**

- All Councillors, except members of the Cabinet, may be members of the Overview and Scrutiny Performance Board, Health Overview and Scrutiny Committee, Overview and Scrutiny Panels or Scrutiny Task Groups.

## **ROLE DESCRIPTION**

Main Purpose of Role

In addition to the duties and responsibilities expected to be undertaken by all Councillors, to actively participate in the Council's Overview and Scrutiny arrangements

## **Duties and Responsibilities**

- To put forward suggestions for areas for scrutiny and participate fully in the conduct of any scrutiny exercise
- To assist the Council and Cabinet in the development of its budget and policy framework by in-depth analysis of policy options
- To participate in the review and scrutiny of the performance of the Council in relation to its policy objectives, performance targets and or particular service areas
- To engage local people in identifying the sorts and standards of services they require and measuring customer satisfaction
- To conduct research, community and other consultation

- To liaise with other external organisations operating in the area, whether national regional or local, to ensure that the interests of local people are enhanced by collaborative working
- To consider, and bring forward for implementation, mechanisms to encourage and enhance the community participation in the development of policy options
- To question Cabinet Members, Chief Officers and Heads of Service about their views on issues and proposals affecting the Council's area 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
- To participate in the review and scrutiny of decisions made and the performance of the Cabinet and Council Officers
- Question and gather evidence from any person (with their consent)
- To promote the role of Overview and Scrutiny both within and outside the Council
- To contribute to suggestions for the future development of the council's scrutiny practices.

### **Conventions/Protocols**

- Each Overview and Scrutiny Panel will comprise the number of members of the Council as determined by Council
- The size of each Scrutiny Task Group will vary according to the purpose for which it is established and its membership shall be agreed by the Overview and Scrutiny Performance Board in consultation with the Leaders of the Political Groups
- Membership of a Scrutiny Task Group will be chosen on the basis of a Member's particular knowledge or interest or commitment to take part
- No member may be involved in scrutinising a decision with which he/she has been directly involved.

### **Accountability**

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is ultimately through the political and electoral process but will also be subject to any Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

### **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

## **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

## **CHAIRMAN OF THE PLANNING AND REGULATORY COMMITTEE**

The Council has established a Planning and Regulatory Committee.

The Council will appoint the Chairman and Vice-Chairman of the Committee.

## **ROLE DESCRIPTION**

### **Main Purpose of Role**

In addition to the duties and responsibilities expected to be undertaken by all councillors, to ensure the effective discharge of those functions assigned to the Planning and Regulatory Committee, ensuring that the provisions of the Council's Code of Practice on Planning Matters are complied with.

### **Duties and Responsibilities**

- To chair and manage the business of the Committee in an efficient manner ensuring effective engagement by all members
- To provide leadership and direction for the Committee
- To determine priorities in the light of the volume of work presented to the Committee
- To facilitate the participation in the Committee by the public and any others in accordance with any scheme agreed from time to time
- To ensure that the Committee takes balanced decisions based on all relevant evidence, always with impartiality and fairness
- To ensure that Committee decisions are recorded with full justifications
- To promote actively the Code of Good Practice in relation to planning matters
- To maintain effective working relationships and links with the Vice-Chairman, other members of the Committee and relevant officers
- To develop a thorough understanding of:

- the planning process, relevant planning policies and other planning considerations as they relate to the Council
- the legal and probity framework relating to planning and development control
- local and national initiatives or developments which are likely to impact on the Council as Planning Authority

- To command the respect and confidence of the Council in relation to the Council's planning functions
- To ensure that relevant local members have the opportunity to put forward views in relation to development proposals in their electoral division
- To monitor performance of the Council's planning and development control operations against Audit Commission and other local and national standards
- To consider training and development needs of councillors to ensure the effective discharge of their responsibilities
- To maintain an overview of planning best practice both locally and nationally.

### **Conventions/Protocols**

- Every member who serves on the Committee will undertake to abide by the Code of Good Practice in relation to Planning Matters
- No member may serve on the Committee unless and until they have undertaken suitable training.

### **Accountability**

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is ultimately through the political and electoral process but will also be subject to any Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

### **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

### **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees,

service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

## **VICE-CHAIRMAN OF THE PLANNING AND REGULATORY COMMITTEE**

The Council has established a Planning and Regulatory Committee.

The Council will appoint the Chairman and Vice-Chairman of the Committee

### **ROLE DESCRIPTION**

#### **Main Purpose of Role**

In addition to the duties and responsibilities expected to be undertaken by all councillors, to undertake, in the absence of the Chairman of the Committee, those duties expected of the Chairman and encompassed in the role description for that position.

#### **Duties and Responsibilities**

- To deputise as necessary for the Chairman of the Committee
- To undertake specific tasks and responsibilities as requested by the Chairman
- To share and support in general, the full workload of the Chairman
- To work actively with the Chairman to manage the work of the Committee.

#### **Conventions/Protocols**

- Every member who serves on the Committee will undertake to abide by the Code of Good Practice in relation to planning matters
- No member may serve on the Committee unless and until they have undertaken suitable training

#### **Accountability**

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is ultimately through the political and electoral process but will also be subject to any Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

## **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

## **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

## **CHAIRMAN OF THE AUDIT AND GOVERNANCE COMMITTEE**

The Council has established an Audit and Governance Committee.

The Council will appoint the Chairman and Vice-Chairman of the Committee.

## **ROLE DESCRIPTION**

### **Main Purpose of Role**

In addition to the duties and responsibilities expected to be undertaken by all councillors, to ensure the effective discharge of those functions assigned to the Audit and Governance Committee.

### **Duties and Responsibilities**

- To chair and manage the business of the Committee in an efficient manner ensuring effective engagement by all members
- To provide leadership and direction for the Committee
- To determine priorities in the light of the volume of work presented to the Committee
- To facilitate the involvement with the Committee of external bodies/partners who may from time to time be asked to contribute to the Committee's work
- To ensure that Committee decisions are recorded with full justifications
- To promote actively those codes and protocols relevant to the work of the Committee, particularly the Council's Financial Regulations and Council's overall corporate governance arrangements

- To maintain effective working relationships and links with the Vice Chairman, other members of the Committee relevant officers and any external contacts
- To develop a thorough understanding of:
  - the Council's overall Corporate Governance arrangements
  - the annual audit plans and any other reports of both the internal and external auditors
  - the Council's Anti-Fraud and Corruption Policy
  - those other codes of practice and policies which relate to the Council's financial administration
- To command the respect and confidence of the Council in relation to the Council's audit and governance arrangements
- To monitor performance of the Council's audit and governance arrangements against CIPFA, the Audit Commission and other local and national standards
- To consider training and development needs of councillors to ensure the effective discharge of their responsibilities
- To maintain an overview of audit and governance best practice both locally and nationally.

### **Accountability**

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is ultimately through the political and electoral process but will also be subject to any Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

### **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

### **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

### **VICE-CHAIRMAN OF THE AUDIT AND GOVERNANCE COMMITTEE**

The Council has established an Audit and Governance Committee.

The Council will appoint the Chairman and Vice-Chairman of the Committee.

## **ROLE DESCRIPTION**

### **Main Purpose of Role**

In addition to the duties and responsibilities expected to be undertaken by all councillors, to undertake, in the absence of the Chairman of the Committee, those duties expected of the Chairman and encompassed in the role description for that position.

### **Duties and Responsibilities**

- To deputise as necessary for the Chairman of the Committee
- To undertake specific tasks and responsibilities as requested by the Chairman
- To share and support in general, the full workload of the Chairman
- To work actively with the Chairman to manage the work of the Committee.

### **Accountability**

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is ultimately through the political and electoral process but will also be subject to any Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

### **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

### **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Equality and Diversity Policy.

## **CHAIRMAN OF THE STANDARDS AND ETHICS COMMITTEE**

### **ROLE DESCRIPTION**

#### Main Purpose of Role

To take a leading role in promoting and maintaining high standards of conduct by the Council, its members and co-opted members.

#### **Duties and Responsibilities**

- To Chair and manage the business of the Committee in an efficient manner, ensuring effective engagement by all members
- To provide leadership and direction for the Committee
- To determine priorities in the light of the volume of work presented to the Committee
- To ensure that the Committee conducts any necessary inquiries, hearings and investigations having regard to the nature of the issue, the rules of natural justice and those local and national procedures adopted by the County Council
- To promote actively the Members' Code of Conduct and Protocols in place from time to time
- To ensure that the Committee monitors the operation of the Members' Code of Conduct and Protocols in place from time to time
- To review the Council's working arrangements for probity and high standards of conduct in public life
- To command the respect and confidence of the Council in relation to matters of standards and probity
- To maintain effective working relationships and links with the Vice-Chairman and members of the Committee, the Chairman and Leader of the Council, Political Group Leaders and other relevant members, the Monitoring Officer and any other relevant officers.
- To maintain an overview of best practice both nationally and locally
- To bring forward suggestions for member training and development in relation to ethical issues
- To represent, by virtue of his/her position, the Council and Committee on relevant external bodies and events as required
- To attend, and where appropriate chair, sub-committees of the Committee.

## **Conventions and Protocols**

- The Council has agreed to establish a Standards and Ethics Committee of councillors and 3 independent members
- Only one member of the Cabinet (who shall not be the Leader of the Council) may be a member of the Committee and that person may not be the Chairman of the Committee.

## **Accountability**

The tasks and duties outlined in this role description relate to the activities of the postholders within the political structures of the Council. Accountability for the postholders' performance is to the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

## **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

## **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

## **VICE-CHAIRMAN OF THE STANDARDS AND ETHICS COMMITTEE**

### **ROLE DESCRIPTION**

#### **Main Purpose of Role**

In addition to undertaking those duties and responsibilities expected of all councillors as appropriate, to undertake, in the absence of the Chairman of the Committee, those duties expected of the Chairman and encompassed in the role description for that position.

#### **Duties and Responsibilities**

- To deputise as necessary for the Chairman of the Committee
- To undertake specific tasks and responsibilities as requested by the Chairman
- To share and support in general, the full workload of the Chairman

- To work actively with the Chairman to manage the work of the Committee
- To attend, and where appropriate chair, sub-committees of the Committee.

### **Conventions and Protocols**

- The Council has agreed to establish a Standards and Ethics Committee of councillors and 3 independent members
- Only one member of the Cabinet (who shall not be the Leader of the Council) may be a member of the Committee and that person may not be the Chairman of the Committee.

### **Accountability**

- The tasks and duties outlined in this role description relate to the activities of the postholders within the political structures of the Council. Accountability for the postholders' performance is to the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

### **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

### **Notes**

The duties described in this role description must be carried out in a manner which promotes equality and opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

### **CHAIRMAN OF THE WASTE CREDIT GOVERNANCE COMMITTEE**

The Council has established a Waste Credit Governance Committee.

The Council will appoint the Chairman and Vice-Chairman of the Committee.

### **ROLE DESCRIPTION**

#### **Main Purpose of Role**

In addition to the duties and responsibilities expected to be undertaken by all councillors, to ensure the effective discharge of those functions assigned to the Waste Credit Governance Committee.

## **Duties and Responsibilities**

- To chair and manage the business of the Committee in an efficient manner ensuring effective engagement by all members
- To provide leadership and direction for the Committee
- To determine priorities in the light of the volume of work presented to the Committee
- To facilitate the involvement with the Committee of external bodies/partners/advisers who may from time to time be asked to contribute to the Committee's work
- To ensure that Committee decisions are recorded with full justifications
- To promote actively those codes and protocols relevant to the work of the Committee, particularly the Council's Financial Regulations and overall corporate governance arrangements
- To maintain effective working relationships and links with the Vice-Chairman, other members of the Committee, relevant officers and any external contacts and advisers
- To develop a thorough understanding of:-
  - the Council's role as lender to the waste project and Mercia Waste overall Corporate Governance arrangements
  - the separation of the Council's roles between lender and waste disposal authority
  - the Council's policies which relate to its financial administration and lending
- To command the respect and confidence of the Council in relation to the Council's waste credit governance arrangements
- To ensure the Committee seeks professional advice as needed whether internal and/or external
- To consider training and development needs of councillors to ensure the effective discharge of their responsibilities.

## **Accountability**

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is ultimately through the political and electoral process but will also be subject to any Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

## **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities..

## **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

## **VICE-CHAIRMAN OF THE WASTE CREDIT GOVERNANCE COMMITTEE**

The Council has established a Waste Credit Governance Committee.

The Council will appoint the Chairman and Vice-Chairman of the Committee.

## **ROLE DESCRIPTION**

### **Main Purpose of Role**

In addition to the duties and responsibilities expected to be undertaken by all councillors, to undertake, in the absence of the Chairman of the Committee, those duties expected of the Chairman and encompassed in the role description for that position.

### **Duties and Responsibilities**

- To deputise as necessary for the Chairman of the Committee
- To undertake specific tasks and responsibilities as requested by the Chairman
- To share and support in general, the full workload of the Chairman
- To work actively with the Chairman to manage the work of the Committee.

### **Accountability**

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is ultimately through the political and electoral process but will also be subject to any Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

### **Conventions and Protocols**

The Vice-Chairman will be from a Group other than that forming the administration.

## **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

## **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Equality and Diversity Policy.

## **CHAIRMAN OF THE PENSIONS COMMITTEE**

The Council has established a Pensions Committee.

The Council will appoint the Chairman and Vice-Chairman of the Committee.

## **ROLE DESCRIPTION**

### **Main Purpose of Role**

In addition to the duties and responsibilities expected to be undertaken by all councillors, to ensure the effective discharge of those functions assigned to the Pensions Committee.

### **Duties and Responsibilities**

- To chair and manage the business of the Committee in an efficient manner ensuring effective engagement by all members
- To provide leadership and direction for the Committee
- To determine priorities in the light of the volume of work presented to the Committee
- To facilitate the involvement with the Committee of external bodies/partners or advisers (eg Independent Financial Adviser or the Fund's Actuary) who may from time to time be asked to contribute to or advise upon the Committee's work
- To ensure that Committee decisions are recorded with full justifications
- To ensure the Committee has regard as appropriate to any advice from the Pension Investment Advisory Panel, Pension Investment Advisory Forum, Pension Board and Chief Financial Officer

- To undertake the roles set out for the Chairman in the Pension Fund Governance Policy Statement
- To promote actively those codes and protocols relevant to the work of the Committee, particularly the Council's Financial Regulations and overall corporate governance arrangements having regard to the Council's Pension Governance Policy Statement
- To maintain effective working relationships and links with the Vice-Chairman, other members of the Committee, relevant officers and any external contacts and advisers.
- To develop a thorough understanding of:
  - the Council's role as Administering Authority of the local government Pension Fund and overall Corporate Governance arrangements
  - the Council's Pension Governance Policy Statement and the role of the advisory bodies
- To command the respect and confidence of the Council in relation to the Council's Pension Fund governance
- To consider training and development needs of members of the committee to ensure the effective discharge of their responsibilities and compliance with the knowledge and skills expectations set out in the Pension Fund Governance Policy Statement.

## **Accountability**

The tasks and duties outlined in this role description relate to the political or member level activities of the County Council. Accountability for members' performance is ultimately through the political and electoral process but will also be subject to any Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

## **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

## **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Corporate Equalities Objectives and Public Sector Equality Duty.

## **VICE-CHAIRMAN OF THE PENSIONS COMMITTEE**

The Council has established a Pension Committee.

The Council will appoint the Chairman and Vice-Chairman of the Committee.

### **ROLE DESCRIPTION**

#### **Main Purpose of Role**

In addition to the duties and responsibilities expected to be undertaken by all councillors, to undertake, in the absence of the Chairman of the Committee, those duties expected of the Chairman and encompassed in the role description for that position.

#### **Duties and Responsibilities**

- To deputise as necessary for the Chairman of the Committee
- To undertake specific tasks and responsibilities as requested by the Chairman
- To share and support in general, the full workload of the Chairman
- To work actively with the Chairman to manage the work of the Committee.

#### **Accountability**

The tasks and duties outlined in this role description relate to the political or Member level activities of the County Council. Accountability for Members' performance is ultimately through the political and electoral process but will also be subject to any Councillor Review Scheme agreed by the Council. The tasks outlined are without prejudice to the separate duties and responsibilities exercised by officers of the County Council for which they are accountable as employees of the County Council as a whole.

#### **General Duties**

To maintain personal and professional development to meet the changing demands of the role, participating in appropriate training and development opportunities.

#### **Notes**

The duties described in this role description must be carried out in a manner which promotes equality of opportunity, dignity and due respect for all Members, employees, service users, partners and constituents and is consistent with the Council's Equality and Diversity Policy.

## **MEMBER REPRESENTATION ON LOCAL DISTRICT STRATEGIC PARTNERSHIPS - ROLE AND PROTOCOLS**

### **Role of the Member**

- To be a non-party political representative of the County Council on any District Local Strategic Partnerships (LSP)
- To develop on a non-political basis information flows and feedback between County Councillors and the LSP
- To act as a non-political LSP champion encouraging and demonstrating commitment to the community leadership role of elected Members.

### **Criteria for Member Selection**

- One County Councillor representing a division within the area of a District LSP will serve on it
- Nominations for District LSPs may be from any Group and representation is on a non-political basis. The key principle must be that any Member nominated will have an interest and a commitment to the role and potential of partnership working represented by LSPs
- Accordingly, the political proportionality of Members selected to serve on LSPs is of no consequence
- If more than one Member is nominated for each District LSP, Group Leaders will seek a consensus as to which Member should be selected for which LSP, in the absence of which the Leader of the Council will decide.

### **Consideration of Issues at LSP**

- Each Member selected to serve on a LSP is to accept that he/she will represent the views of the Council within currently approved policies and will not represent the views of his/her political party
  - Each Member on a LSP will determine the best way to represent the views of the Council on any issues under consideration by the LSP. This may involve either a statement of existing County Council policies and/or the seeking of views of/consulting with relevant councillors, particularly those within the area of an LSP.
- Most LSPs do not have voting arrangements. If however voting or assent to a particular course of action is required, the Member representative is empowered so to do provided that any decision required is in accordance with County Council policy and/or does not require resources beyond allocated budgets.

### **Feedback Link to other Members**

Each Member on a LSP will determine the best way to communicate to County Councillors any progress on or outcomes from issues considered by an LSP.

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# **COUNCILLORS' ALLOWANCES SCHEME**

## APPENDIX 13

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## **APPENDIX 13 - COUNCILLORS' ALLOWANCES SCHEME**

*[Updated by CPI 1.8% wef 1 April 2019]*

Worcestershire County Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) England Regulations 2003, has made the following scheme:-

### **Citation**

1. This scheme is the Worcestershire County Council Councillors' Allowances scheme, and has effect from 1 April 2019.

### **Interpretation**

2. In this scheme,

"Councillor" means a member of the Worcestershire County Council who is a County Councillor;

"Year" means the 12 months ending with 31 March.

### **Basic Allowance**

3. Subject to paragraph 20 for each year, a basic allowance of £9,108 shall be paid to each Councillor. This allowance is intended to recognise the time devoted by Councillors to their work, including such inevitable calls on their time as meetings (whether Council meetings or meetings with constituents and political group meetings). This allowance is also intended to cover other incidental costs incurred including:-

- use of home
- use of telephone (including the cost of mobile phones and other handheld devices of a similar nature)
- costs associated with member surgeries and other public events (including Room Hire) which are not facilitated by the County Council.

4. By the very nature of their positions some Councillors who hold positions on the Council may incur additional expenditure which is over and above that incurred by ordinary backbench Councillors. In these circumstances any additional costs will be met from their special responsibility allowances.

### **Special Responsibility Allowances**

5. For each year, a special responsibility allowance shall be paid to those Councillors who have been notified to the Assistant Director for Legal and Governance by their Group as holding the special responsibilities in relation to the authority as fall within the categories defined in paragraph 5 of the Regulations and as specified in Schedule 1 to this Scheme.

6. Subject to paragraph 19, the amount of each such allowance shall be the amount specified against that special responsibility in that Schedule.

7. In addition to those Special Responsibility Allowances payable, an allowance of £14,233 p.a. is payable to the Chairman of the County Council under the provisions of the Local Government Act 1972. An allowance of £3,223 p.a. is also payable to the Vice-Chairman under this provision.

8. Special Responsibility Allowances are only payable to Group Leaders with 5 or more group members.

### **Annual Uplift of Allowances**

9. The basic, special responsibility and carers/dependants allowances and the allowance payable to fund connection to the Internet shall be uplifted annually on 1 April in line with the Consumer Price Index unless Council determines otherwise.

### **Councillor ICT Arrangements**

10. (i) Councillors are expected to use defined IT and equipment in order to be an effective Worcestershire County Councillor

(ii) The equipment referred to in Paragraph (i) is:

- Laptop and printer
- Broadband internet connection (or alternative)
- Secure connection to Worcestershire County Council networks
- Smart phone

11. The County Council will provide each Councillor with a laptop, printer and smartphone to support their role as a County Councillor.

12. In addition, a sum of £249 per annum (paid monthly) is paid to Councillors to fund connection to the internet subject to proof of purchase being provided.

### **Backdating**

13. When the scheme is amended, the Council may choose to apply the amendment retrospectively to the beginning of the financial year in which the amendment is made.

14. Where a Councillor takes on duties entitling him/her to a different level of allowances, the new level of allowances may be applied retrospectively to the time at which the circumstances changed.

15. The Council's Independent Remuneration Panel may make recommendations, where relevant, as to whether payments on which they have made a recommendation may be backdated. The Council is required to have regard to these recommendations.

### **Only One Allowance**

16. No Councillor may receive more than one Special Responsibility Allowance.

### **Attendance Allowance**

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

### **Renunciation**

18. A Councillor may renounce in writing to the Chief Financial Officer any part of his/her entitlement to an allowance under this scheme and may subsequently withdraw or amend such renunciation, but not retrospectively.

### **Part Year Entitlement**

19. The provisions of this paragraph shall have effect to regulate the entitlements of a councillor to a basic and special responsibility where, in the course of a year:-

- (a) the scheme is amended; or
- (b) that person becomes or ceases to be a councillor; or
- (c) that councillor accepts or relinquishes a special responsibility for which a Special Responsibility Allowance is payable.

20. In relation to basic allowances and Special Responsibility Allowances:-

- (a) if an amendment to this scheme changes the amount to which a councillor is entitled;  
or
- (b) where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year; or
- (c) where the special responsibilities of a councillor do not subsist throughout the year;  
or
- (d) where the scheme is amended as referred to in (a) above and the term of office and/or special responsibilities of the councillor do not subsist throughout any part of the periods within the year distinguished by the payment of different amounts for these allowances then

the entitlement to the allowance shall be calculated by reference to the proportion the number of days in each such period bears to the number of days in that year.

### **Claims and Payment**

21. Payments in respect of basic and special responsibility allowances shall, subject to paragraph 20 above, be made in monthly instalments of one-twelfth of the amount specified in the Scheme.

22. Payments otherwise than in accordance with paragraph 21 above will only be made when it appears to the Chief Financial Officer in a particular case that individual and extenuating circumstances exist.

23. Where a payment of one-twelfth of the amount specified in this scheme in this respect of basic allowance or a Special Responsibility Allowance would result in the councillor receiving more or less than the amount to which, by virtue of Schedule 1, he/she is entitled, the payment shall be such amount as will ensure that no more or no less is paid than the amount to which he/she is entitled.

### **Travelling and Subsistence Allowances**

24. Subject to paragraph 25 below, a Councillor shall be entitled to receive travel and subsistence allowances where the Councillor necessarily incurs expenditure on travelling or subsistence for the purposes of enabling the performance of a duty approved in advance.

25. No Councillors or individuals shall decide for themselves that expenses should be recoverable for something they have done, even if done for or on behalf of the Council. In the interests of flexibility, and subject to paragraph 27 below, the situations set out in Schedule 2 to this Scheme (within the UK except where otherwise stated) are hereby approved for the purposes of travelling and subsistence allowances.

26. The County Council has previously determined that the payment of subsistence allowances are only approved for duties out of County, for at least six hours and outside a 50 mile radius of the County Hall Campus as set out in Schedule 2.

27. The following situations are not approved:-

- party political meetings;
- Religious meetings such as church services;
- site visits (unless authorised member body visits) or visits with or to constituents; and
- School Governor's meetings/events.

28. The rates currently payable are detailed in Schedule 3 to this Scheme.

29. The distance claimed for mileage shall be the shortest, most reasonable journey by road from the point of departure to the point at which the duty is performed and similarly from the duty point to the place of return.

### **Carers/Dependants Allowance**

30. A Councillor shall, in appropriate circumstances, be entitled to receive a carers/dependants allowance, particularly to recompense those councillors who incur expenditure for the care of children or other dependants whilst undertaking those duties set out in Schedule 2 to this Scheme. The rates currently payable are detailed in Schedule 3 to this Scheme.

## **Co-opted Members**

31. Subject to paragraph 26 above, a co-opted member who serves on the Council's Committees, Panels or Task Groups will be entitled to receive travel and subsistence allowances (as detailed in Schedule 3 to this Scheme) where the member necessarily incurs expenditure on travelling or subsistence for the purposes of enabling the performance of a duty approved in advance.

32. A co-opted member shall, in appropriate circumstances, be entitled to receive a carers/dependants allowance in accordance with paragraph 29 above.

## **Conference Allowances**

33. Subject to paragraph 26 above, allowances in the nature of allowances for travelling and subsistence shall be payable in respect of attendance, previously approved, at conferences or meetings organised by other persons or bodies. The convenors shall not be commercial or have wholly or partly party political objectives. The purposes of the conference or meeting shall concern the interests of the Council's area or its inhabitants.

34. All appropriate booking arrangements shall as far, as practical be undertaken by the Assistant Director for Legal and Governance.

## **Official and Courtesy visits**

35. Where a Councillor reasonably incurs travelling and/or other expenses on behalf of the Council in making pre-authorised official or courtesy visits inside or outside the UK, such expenses shall be payable.

36. Expenses incurred in the pre-authorised reception and entertainment by way of official courtesy at visits by distinguished persons and persons representatives or connected with local government or other public services inside or outside the UK shall also be payable.

## **Foreign Travel**

37. Members shall only travel abroad on County Council business with the express approval of their Group Leader and the Chief Executive.

38. All arrangements for travel and hotel accommodation shall as far as is practicable be made by the Assistant Director for Legal and Governance.

39. Councillors are required to provide receipts of actual expenses and details of meals provided when they submit claims for reimbursement.

## **Double Claiming**

40. Where a Councillor is also a member of another authority, that Councillor may not receive allowances from more than one authority in respect of the same duties. A

Councillor must certify that no other claim will be made in respect of matters to which a particular claim relates and no payment by way of travelling or subsistence allowances or conference allowances can be made if payment has already been made in respect of the matter concerned under this scheme of allowances.

### **Income Tax**

41. Basic and special responsibility allowances are classed as emoluments of office and as such are subject to income tax under Schedule E. This shall be a matter between the Councillor and the Inland Revenue.

42. The Chief Financial Officer is also required to make a return to the Inland Revenue at the end of each financial year, giving details of car allowances paid to Councillors during that year. The Inland Revenue takes this information into account when issuing tax codes to Councillors for the following year.

### **National Insurance**

43. Class I National Insurance contributions becomes payable if allowances (including subsistence at County Hall, and for the deemed profit for car allowances) reach the lower monthly earnings limit and the councillor is aged below the normal retirement age . Once normal retirement age is reached liability to pay National Insurance contributions ceases provided that a Certificate of Age Exemption Form (CF384) is obtained from the Benefits Agency and passed to the . To enable correct records to be maintained a Councillor may be requested to provide certain information relating to National Insurance contributions to the Chief Financial Officer.

### **Statutory Sick Pay**

44. For the purposes of the Statutory Sick Pay Scheme, a Councillor who receives basic and special responsibility allowances is to be counted as an “employee” and may in certain circumstances be eligible to receive Statutory Sick Pay.

45. All Councillors aged 65 and over are excluded from the Statutory Sick Pay Scheme. Other Councillors may be eligible to benefit in respect of days on which they would have otherwise been entitled to claim the above allowances, dependent upon the level of allowances received.

46. Any Councillor who is prevented from attending Council business because of sickness and wishes to claim shall contact the Chief Financial Officer.

### **Pensions**

47. Councillors are not currently permitted to join the Local Government Pension Scheme.

## **Submission of claims**

48. Further guidance on the completion of monthly claims is supplied to each councillor and claims must be made in accordance with that guidance. Claims are only necessary for travelling, out of county subsistence and the payment of a Carers/Dependants Allowance.

49. Claims must be made within 3 months of the duty to which the claim relates. Late claims will only be made in exceptional circumstances and with the approval of the Assistant Director for Legal and Governance.

50. Payment of any claim shall normally be through the "payroll" system in the last week of every month provided that the claim has been received at least three weeks before the end of the month. Payments outside this system shall not be made unless it appears to the Chief Financial Officer in a particular case that individual and extenuating circumstances exist.

## **Enforcement**

51. As a code of good practice, Councillors are expected to observe the procedures and protocols set out above, without the need for sanctions. However where circumstances dictate, individual cases shall be drawn to the attention of the appropriate Group Leader by the Assistant Director for Legal and Governance or Chief Financial Officer with the expectation that the Leader of the appropriate Group shall seek explanations from the Councillor. Councillors are reminded that claims for allowances are subject to both internal and external audit.

## **Repayment of Allowances**

52. Where payment of any allowance has already been made in respect of any period during which the member concerned:-

- (a) ceases to be a member of the authority; or
- (b) is in any other way not entitled to receive the allowance in respect of that period,

the authority may require that such part of the allowance as relates to any such period be repaid to the authority.

## **Disclaimer**

53. Every effort has been made to state accurately the position of the date of publication of these notes. The Council shall not be liable for any inaccuracies, omissions or misrepresentations contained therein or for any change in practice or interpretation which may be adopted without notice by the County Council subsequent to the date of this publication.

**SCHEDULE 1 - POSITIONS DEEMED TO CARRY SPECIFIC RESPONSIBILITIES AND THE AMOUNTS PAYABLE**

<b>BAND</b>	<b>AMOUNT OF ALLOWANCE</b>	<b>ROLE</b>
Band 1	£35,494	Leader of the County Council
Band 2	£18,846	Deputy Leader of the County Council
Band 3	£18,503	Cabinet Members with Responsibility Chairman of the Overview and Scrutiny Performance Board
Band 4 (a)	£10,512	*Leader of the Conservative Group Leader of the Labour Group Leader of the 2017 Group Lead Scrutiny Members (including Health Overview and Scrutiny Committee Chairman and Chairmen of Overview and Scrutiny Panels) Chairman of the Audit and Governance Committee Chairman of the Waste Credit Governance Committee
Band 4 (b)	£10,917	Chairman of the Planning and Regulatory Committee Chairman of the Pensions Committee

\* Not currently payable due to rule against double allowances

**SCHEDULE 2 - COUNCILLORS' ALLOWANCES - APPROVED DUTIES FOR TRAVELLING, SUBSISTENCE AND CARERS/DEPENDANTS ALLOWANCE PURPOSES (SUBSISTENCE FOR OUT OF COUNTY ONLY)\***

- Any member body meeting as part of the Council's constitutional arrangements or called by an officer;
- Chairman/Vice-Chairman's attendance at agenda briefings;
- Any duty undertaken by the Chairman or Vice-Chairman of the County Council in that role and, by Cabinet Members with Responsibility and Chairmen Vice-Chairmen of the Cabinet, and Committees or scrutiny lead members in that role;
- Attendance at any other meeting or site visit where the initiative for attendance is taken by or on behalf of a chief officer;

- Attendance at any member development or other event, approved in advance and as a representative of the Council;
- Visits at the initiative of the councillor to a chief officer (in the county only);
- Attendance at any outside bodies as a representative of the Council (other than school governors) unless excluded at time of appointment or the body themselves pay such expenses;
- Parish Council meetings in the Councillor's Division;
- A (non-political) public meeting when Councillor's attendance is requested by the Organisers;
- Attendance at Civic events by written invitation from the Council;
- Other meetings where attendance is requested by officers;

**\* [Note: subsistence allowances are only approved for duties out of County, for at least six hours and outside a 50 mile radius of the County Hall Campus.]**

#### SCHEDULE 3 – RATES OF TRAVEL AND SUBSISTENCE ALLOWANCES

### Travelling Allowances

With effect from 1 April 2012 eco-friendly mileage ranges have been introduced for Councillors. For claims between 1 and 8,500 miles the rates are based on the following VED bands (emissions in grams per kilometre g/km):

- |   |              |
|---|--------------|
| • band 1 - VED bands A to C (0 -120g/km)  | 45p per mile |
| • band 2 - VED bands D to H (121-175g/km) | 40p per mile |
| • band 3 - VED bands I to M (175g+ g/km)  | 36p per mile |

Vehicles registered before 1 March 2001 will be included in band 2. The VED band/CO2 emissions for vehicles registered after 1 March 2001 is found on the tax disc and/or registration document (Form V5). There are no passenger rates included in the new scheme.

Claims for mileage in excess of 8,500 miles will be paid at 15p per mile irrespective of CO2 emissions.

### Public Transport

The amount of the ordinary standard class fare (or any available cheap fare as incurred).

Bicycle Rates 20 pence per mile

### Subsistence Allowances (payable out of county only)

With effect from 1 April 2012 a Councillor, on an approved duty for at least six hours and who takes one meal outside a 50 mile radius of the County Hall Campus (not home address) can be reimbursed (against receipts) to a maximum value of £8.80.

### **Overnight Accommodation**

Councillors who require overnight accommodation should, wherever possible, make the necessary arrangements via the Member Support Unit. In exceptional circumstances, where it has not been possible to make the necessary arrangements in advance, then prior consultation with the Assistant Director for Legal and Governance should take place, whereupon any reasonable expenses incurred may be reclaimed on the production of the necessary receipts.

### **Carers and Dependants Allowance**

Up to £6.32 per hour with an annual ceiling of £2,526 evidenced by receipts.

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**MANAGEMENT STRUCTURE August 2019**

## CHIEF EXECUTIVE

HEAD OF PAID SERVICE					
CORPORATE POLICY DEVELOPMENT AND PLANNING					
CHIEF FINANCIAL OFFICER	STRATEGIC DIRECTOR FOR COMMERCIAL & CHANGE	DIRECTOR OF CHILDREN, FAMILIES AND COMMUNITIES	DIRECTOR OF ADULT SERVICES	DIRECTOR OF ECONOMY AND INFRASTRUCTURE	DIRECTOR OF PUBLIC HEALTH
PROPER ADMINISTRATION OF FINANCIAL AFFAIRS (Section 151 officer)  FINANCIAL SERVICES  DEPLOYMENT OF REVENUE AND CAPITAL RESOURCES  TREASURY MANAGEMENT  PENSION ADMINISTRATION AND INVESTMENTS  PROFESSIONAL ACCOUNTABILITY FOR POSTED FINANCE STAFF	ORGANISATIONAL CHANGE AND TRANSFORMATION  COMMISSIONING AND COMMERCIAL SUPPORT/STRATEGIC PROCUREMENT CORPORATE PROJECT MANAGEMENT/MAJOR PROJECTS/STRATEGIC PARTNERSHIPS  CORPORATE PERFORMANCE MANAGEMENT AND IMPROVEMENT  CORPORATE RISK AND EFFICIENCY  HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT  LAND AND PROPERTY  LEGAL AND DEMOCRATIC SERVICES  SYSTEMS AND CUSTOMER ACCESS (INCLUDING ICT AND THE HUB)  RESEARCH AND MARKETING  CONSUMER RELATIONS  WORCESTERSHIRE PARTNERSHIP  EQUALITIES AND DIVERSITY  VOLUNTARY & COMMUNITY SECTOR PARTNERSHIPS  REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES and CORONER'S SERVICE  DATA PROTECTION  YOUTH MUSIC AND THE MUSIC HUB  COUNTY ARTS SERVICE  YOUTH OFFENDING SERVICES (Joint	CHILDREN'S SOCIAL CARE INCLUDING ASSESSMENT AND INTERVENTION, SAFEGUARDING AND PROVIDER SERVICES  CORPORATE PARENTING  WORCESTERSHIRE SAFEGUARDING CHILDREN'S BOARD  CHILDREN'S PLACEMENT AND RESOURCES SERVICES  SAFEGUARDING AND QUALITY ASSURANCE  EARLY HELP AND PARTNERSHIPS INCLUDING POSITIVE ACTIVITIES AND STRONGER FAMILIES  EDUCATION AND SKILLS  POLICY AND STRATEGY DEVELOPMENT FOR SCHOOLS AND OTHER SETTINGS	ADULT SOCIAL SERVICES - INCLUDING SOCIAL WORK and SOCIAL CARE  MENTAL HEALTH SERVICES  INTEGRATED COMMISSIONING (ADULTS)  'WELL CONNECTED' PROGRAMME	TRANSPORTATION  HIGHWAYS/ STREET WORKS  ECONOMIC DEVELOPMENT  PASSENGER TRANSPORT  WASTE MANAGEMENT  SCIENTIFIC SERVICES  ENVIRONMENT AND PLANNING  SUSTAINABILITY  TRADING STANDARDS & ANIMAL HEALTH  ARCHIVES AND ARCHAEOLOGY	PUBLIC HEALTH AND WELLBEING  COMMUNITY SAFETY - INCLUDING PREVENTING AND TREATING SUBSTANCE MISUSE AND DOMESTIC VIOLENCE  EMERGENCY PLANNING and PUBLIC PROTECTION

	Service with West Mercia) LIBRARIES, MUSEUMS, ADULT AND COMMUNITY LEARNING COUNTRYSIDE GREENSPACE and GYSIES/TRAVELLERS SERVICE ROAD SAFETY/SCHOOL CROSSING				
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