

PUBLIC

AGENDA ITEM No. 4

DERBYSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

10TH JANUARY 2019

REFRESH OF THE CONSTITUTION

**Report of the Director of Legal Services and Monitoring Officer and the
Director of Finance and ICT and Section 151 Officer**

Purpose of the Report

To consider and approve the refresh of the Council's Constitution.

Information and Analysis

In February 2018, the County Council launched its intention to be an Enterprising Council. In supporting this, the Standards Committee, in July 2018, commissioned a review of the Council's Constitution as part of its on-going work to ensure the Constitution is fit for purpose.

A review of all aspects of the Constitution has now been undertaken and the draft document as at December 2018, is appended to this report.

It is proposed that the refreshed Constitution will now be divided into two sections as follows, the Articles and the Appendices. The Articles set out the overarching functions and decision-making framework of the Council, whilst the Appendices to the Articles contain the details as to how the functions listed in the Articles will be carried out:

Section 1 – Articles to the Constitution:

1. The Constitution
2. Members of the County Council
3. Citizens and the County Council
4. The Full Council
5. The Chairman of the County Council
6. Leader of the Council and the Cabinet
7. Decision Making
8. Improvement and Scrutiny Arrangements

9. Regulatory Planning and Regulatory Licensing Appeals Committee
10. Audit Committee
11. Pensions and Investment Committee
12. Health and Wellbeing Board
13. Police and Crime Panel
14. Corporate Parenting Committee
15. Joint Committees
16. The Governance and Ethics Committee
17. Joint Arrangements
18. Officers
19. Finance, Contracts and Legal Matters
20. Review of the Constitution
21. Suspension, Interpretation and Publication of the Constitution

Appendices to the Articles:

1. Scheme of Delegation
2. Petition Scheme
3. Council Procedure Rules
4. Executive procedure Rules
5. Improvement and Scrutiny Rules
6. Access to Information Rules
7. Budget and Police Framework
- 8A Financial Regulations
- 8B. Standing Orders relating to Contracts
- 9 Officer Employment Procedure Rules
10. Ethics Statement
11. Member Code of Conduct
12. Officer Code of Conduct
13. Member and Officer Relationships Protocol
14. Independent Remuneration Panel
15. Members Allowances
16. Management Structure
17. Elected Member Role Profiles
18. General Data Protection Protocol
19. Protocol for Members serving on Outside Bodies
20. Planning Code of Good Practice
21. Protocol for use of IT by Members/Use of Resources

This refreshed Constitution will focus on streamlining the Council's decision-making principles, whilst maintaining a robust governance framework which can deliver a commitment to integrity and transparency. There has also been a focus on improving and building on the existing Ethical Governance

Framework and hence there are some additions documents now contained within the proposed Constitution.

It should be noted however that no changes are currently proposed in respect of the Improvement and Scrutiny Arrangements; these arrangements will be reviewed following receipt of Government Guidance about future scrutiny arrangements for all Councils. Likewise, the Member's Code of Conduct remains unchanged and again this is because the Council is awaiting the outcome of the review which has been undertaken by the Government's Committee for Standards in Public Life.

The draft Financial Regulations and Standing Orders in Relation to Contracts (Appendices 8A and 8B respectively), have been reported to the Council's Audit Committee where it was resolved that they be recommended for approval by Cabinet and Council. These Appendices are not included with the papers, but will be circulated in electronic format prior to the meeting.

The Protocol for use of IT by Members/Use of Resources is a new document which is the process of being written and will be presented to a future meeting of the Standards Committee for approval.

Timeframes for implementation of any proposed changes

Subject to approval by the Standards Committee, the refreshed Constitution will be referred to the meeting of Full Council in February 2019, with full implementation being launched across the Council at the start of the municipal year in May 2019.

In conjunction with the Member Development Working Group, a programme of training for both Members and Officers is being developed to support the implementation of the proposed wide-ranging changes to the Constitution. Details will be presented to a future meeting of the Committee.

Considerations

In preparing this report the relevance of the following factors has been considered: financial, legal, prevention of crime and disorder, equality and diversity, human resources, environmental, health, property and transport considerations.

Background Papers

Derbyshire County Council's Constitution.

OFFICER'S RECOMMENDATION

Standards Committee is requested to consider the following recommendations:

1. To consider and approve the proposed refreshed Constitution;
2. To refer the proposed refreshed Constitution to the next meeting of Full Council in February 2019, with a recommendation that the changes are implemented at the commencement of the Municipal Year 2019/2020
3. To recommend the delivery of a training programme to all Elected Members and appropriate Officers to sufficiently advise and raise awareness of the proposed changes to the Constitution;
4. To note that further reports in respect of the Constitution and associated activity will be taken to future meetings of the Standards Committee

Janie Berry
Director of Legal Services and Monitoring Officer

Peter Handford
Director of Finance and ICT and Section 151 Officer

Article 1 – The Constitution

1.1 The Constitution

(a) The Articles, and all appendices, comprise the Constitution of Derbyshire County Council.

(b) The Council has adopted executive arrangements as the basis for its Constitution. 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 4 (Cabinet Procedure Rules).

(ii) Article (Decision-Making) and Appendix 6 (Access to Information Rules).

(iii) Article 8 (Overview and Scrutiny Arrangements) and Appendix 5 (Overview and Scrutiny Procedure Rules).

(iv) Appendix 1 (Scheme of Delegation of Responsibility for Functions).

1.2 Powers of the 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:

1. 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 Derbyshire to improve their economic social and environmental well-being;
2. support the active involvement of citizens in the process of local authority decision-making;
3. help Councillors represent their constituents more effectively;
4. make clear how the Council is to operate, and enable decisions to be taken efficiently and effectively;

5. create a rigorous means by which decision-makers can be held to public account;
6. ensure that no one will review or scrutinise a decision in which they are directly involved;
7. ensure that those responsible for the decision-making are clearly identifiable to local people and that they explain the reasons for the decisions; and
8. 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 Council

2.1 Composition and eligibility

(a) **Composition.** The Council will comprise 64 members, otherwise called Councillors. Councillors will be elected by the voters of 61 electoral divisions in accordance with a scheme drawn up by the Local Government Commission and approved 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 is held on the first Thursday in May every four years. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election. 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.

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.
- (iii) For these purposes, “confidential” and “exempt” information are defined in legislation and the Access to Information Rules in Appendix 6 of this Constitution.

(c) Role Profiles

The County Council has agreed role profiles for Councillors and the various office holders in the County Council and will keep these under review. These are contained in Appendix 17 of this Constitution.

2.4 Conduct

Councillors will at all times observe the Members' Code of Conduct as adopted from time to time and the Protocol on Member/Officer Relations as adopted and as set out respectively in Appendices 11 and 13 and the conduct provisions of the Procedural Standing Orders (set out in Appendix 3) at meetings to which they apply.

2.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Appendix 15 of this Constitution.

Article 3 – Citizens and the 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 6 of this Constitution:

- (a) **Voting and petitions.** Citizens on the electoral roll for the County area have the right to vote. Citizens may also sign a petition to request a referendum for an elected mayor form of Constitution. The Council's Petition Scheme is set out at Appendix 2 to the Constitution.
- (b) **Information.** Citizens have the right in accordance with the Access to Information Rules and the law to:
 - (i) attend, record and report on meetings of the County Council and Committees except where confidential or exempt information is likely to be disclosed and the meeting is therefore closed to the press and public;
 - (ii) attend, record and report on meetings of the Executive, except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
 - (iii) find out from the Forward Plan what key decisions will be taken by the Executive and when;
 - (iv) see reports and background papers and any records of decisions made by the Council and the Executive 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 in line with the provisions of the Council's Petition Scheme (Appendix 2), or submission of a question or the making of comments in accordance with the procedure set out in the Council's Procedural Standing Orders (Appendix 3). Separate arrangements exist for addressing the Regulatory Planning 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 complaints scheme
- (ii) the Local Government Ombudsman after using the Council's own complaints scheme;
- (iii) the Monitoring Officer/Governance and Ethics Committee of the Council about a breach of the Members' Code of Conduct.

3.2 **Citizens' responsibilities**

Citizens must not be violent, abusive or threatening to Councillors or officers and must not willfully harm things owned by the Council, Councillors or officers.

3.3 **Equal Opportunities**

The County Council values the rich diversity of Derbyshire'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 Constitution;
 - (ii) approving or adopting the policy framework and the budget;
 - (iii) subject to the urgency procedure contained in the Access to Information Procedure 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;
 - (iv) appointing the Leader;
 - (v) agreeing or amending the terms of reference for committees, deciding on their composition and making appointments to them;
 - (vi) appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;
 - (vii) adopting a members' allowances scheme under Appendix 15;
 - (viii) changing the name of the area;
 - (ix) confirming the appointment of the Head of Paid Service;
 - (x) making, amending, revoking, re-enacting or adopting bye-laws and promoting or opposing the making of local legislation or personal Bills;

- (xi) all other matters which, by law, must be reserved to Council.

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 Council meeting:-

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

and they will be conducted in accordance with the Council Procedure Rules attached at Appendix 3 to the Constitution.

4.3 Responsibility for Functions

The Council will keep up to date Appendix 1 of this Constitution setting out the allocation of responsibilities for the Council's functions.

Article 5 – The Chairman of the County Council

5.1 Role and Function of the Chairman of the Council

(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 to:

- (i) be the Civic Leader of Derbyshire;
- (ii) promote the interests and reputation of the County Council and of Derbyshire 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) undertake civic community and ceremonial functions;
- (iv) uphold and promote the purposes of the Constitution;
- (v) 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;
- (vi) ensure that the Council meeting is a forum for the debate of matters of concern to the local community and a place at which members hold the Leader and Cabinet to account;
- (vii) determine any matter referred to him/her in relation to matters requiring an urgent decision pursuant to paragraph 13 of Appendix 5 (call-in and urgent decisions) or paragraph 4 of Appendix 7 (urgent decisions outside budget and policy framework) of this Constitution;
- (viii) serve on any other bodies either within or outside the Council as appropriate or attend related events and conferences.

The role of the Chairman is set out in the Chairman of the Council Member Role Profile attached at Annex 6 to Appendix 18.

(c) Neither the Chairman nor Vice-Chairman of Council may be appointed to the Cabinet.

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 current Derbyshire County Council Cabinet consists of 7 Councillors). 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. Cabinet Member portfolios 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, or individual members of the Cabinet, or officers, or in accordance with joint arrangements, 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 he or she:

- (a) resigns from the office of Leader; or
- (b) is disqualified from being or remaining a Councillor; or
- (c) is no longer a Councillor of the Council for any reason; or
- (d) is removed from office by an 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).

The role of the Leader is set out in the Leader of the Council Role Profile set out in Annex 2 to Appendix 18.

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 Improvement and Scrutiny Committees or exercise scrutiny functions.
- (c) A Cabinet Member shall hold office in the Cabinet until he/she:
 - (i) resigns from office;
 - (ii) is disqualified from being or remaining a member or is no longer a Councillor for any reason; or
 - (iii) 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 Profiles

Role profiles governing how Cabinet Members should carry out their responsibilities are contained in Annex 4 to Appendix 18.

6.7 Proceedings of the Cabinet

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

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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 Delegation 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 to:

- (i) 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. The County Council has set this level at £500k; or

(ii) 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, the Financial Regulations set out at Appendix 8(a) to this Constitution and the provisions of the Access to Information Rules set out in Appendix 6 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 Strategic Director is responsible.

7.4 Decision-making by the Full Council

Subject to Article 7, the County Council meeting will follow the Procedural Standing Orders set out in Appendix 3 of this Constitution when considering any matter.

7.5 Decision-making by the Executive

Subject to Article 7, the Cabinet will follow those parts of the Procedural Standing Orders set out in Appendix 3 which may apply to it and the Cabinet Procedure Rules set out in Appendix 4 of the Constitution when considering any matter. The procedures relating to the taking of key decisions are set out in Appendix 6 of the Constitution (Access to Information Rules).

7.6 Decision-making by Improvement and Scrutiny Committees

(a) Improvement and Scrutiny Committees will follow the Improvement and Scrutiny Procedures Rules set out in Appendix 5 of the Constitution when considering any matter.

(b) Improvement and Scrutiny Committees have no executive decision-making powers in relation to the functions within their scope, nor does any Improvement and Scrutiny Working Group.

(c) Scrutiny Task Groups will follow those parts of the Improvement and Scrutiny Procedure Rules set out in Appendix 5 as apply to them.

7.7 Decision-making by other committees and sub-committees established by the Council

Subject to Article 7, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Appendix 3 of the Constitution as apply to them.

7.8 Decision-making by Officers

Subject to Article 7, 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 – Improvement and Scrutiny Committees

8.1 Terms of Reference

The Council will appoint the four Improvement and Scrutiny Committees, listed below, to discharge the functions conferred by section 21 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the following table:

Committee	Scope
Resources	Budget Strategy; Financial Management; Asset Management; Efficiency/Value For Money Programme (Service Redesign, Property Rationalisation, Council Transport Coordination); Procurement; Personnel (Including Single Status); Legal Services; Member Services; Council Strategic Policy; Community Strategy and Council Plan; Derbyshire Partnership Forum; External Relations; Regional/Leadership Group; (East Midlands Leaders Board/East Midlands Councils) Public Relations, Policy and Research; Strategic Planning; Local Planning Frameworks; Minerals and Waste Planning; Local Economic Assessment; HCA Single Conversation; Community Infrastructure Levy; Economic Development; DDEP Single Programme; Creative Industries Programme; Markham Vale; Credit Crunch Programme; Related External Funding.
Places	Libraries, Museums, Arts and Heritage; Archives and Modern Records; Sports Development; Tourism; Historic Buildings; Voluntary Sector; Highways and Bridges; Street Lighting; Public Footpaths; Road Safety; Public Transport; Community Transport; Schools and Special Needs Transport; The Countryside; Community Leadership; Community Consultation; Crime and Disorder Partnerships; Youth Offending; Domestic Violence; Action on Drugs; Trading Standards; Emergency Planning; Travellers; Community Cohesion; Social Inclusion; Parish Council Liaison; Core Systems; IT Services; Climate Change; Carbon Management; Waste Management; Land Reclamation; Minerals and Waste Planning; Local Planning Frameworks
People	School Capital Planning; School Capital Programme; Surplus Places; School Support (Personnel, Finance and IT); School Admissions; School Improvement; Governor Support; Home to School Transport; Special Educational Needs; Adult Education; Connexions; FE Colleges; Links to Faith Schools;

	<p>Improving Outcomes for Young People; Children's Services Planning; Multi-Agency Partnerships; Safeguarding; Children's Disabilities; Engagement with Young People; Engagement with Parents and Carers in Service Design; Youth Service; Early Years and Childcare; Children's Centres; Links to Communities Portfolio – Young People's Safety, Youth Offending, Domestic Violence.</p> <p>Home Care; Residential Care; Day Care; Supporting People; Safeguarding; Adults with Learning Difficulties; Adults with Physical Disabilities; Adults with Mental Ill-Health; Multi-Agency Partnerships; Personalisation; Reducing Health Inequalities; Welfare Rights; Links with Health And Voluntary Sector</p>
Health	To review and scrutinise any matter relating to the planning, provision and of health services in its area.

8.2 General Role

Within their terms of reference, the Improvement and Scrutiny Committees will:

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) make reports and/or recommendations to the full Council and/or the Executive and/or any policy, joint or area committee in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants; and
- (iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive.

8.3 Specific Functions

- (a) **Policy development and review.** The Improvement and Scrutiny Committees may:
 - (i) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
 - (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;

- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 - (iv) question members of the Executive and committees and chief officers about their views on the issues and proposals affecting the area; and
 - (v) 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.
- (b) **Scrutiny.** The Improvement and Scrutiny Committees may:
- (i) review and scrutinise the decisions made by and performance of the Executive and/or committees and Council officers both in relation to individual decisions and over time;
 - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
 - (iii) question members of the Executive and or committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
 - (iv) make recommendations to the Executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
 - (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address an Improvement and Scrutiny Committee and local people about their activities and performance; and
 - (vi) question and gather evidence from any person (with their consent).
- (c) **Best Value.** To oversee specific Best Value reviews undertaken on the Council's functions; receive progress reports; and make recommendations for consideration by the Executive on measures to be implemented.
- (d) **Annual Report.** The Improvement and Scrutiny Committee must report annually to full Council on their working and make recommendations for future work programmes and amended working methods if appropriate.

- (e) **Officers.** The Improvement and Scrutiny Committees may exercise overall responsibility for the work programme of the officers employed to support their work.

8.4 **Proceedings of Improvement and Scrutiny Committees**

The Improvement and Scrutiny Committees will conduct their proceedings in accordance with the Improvement and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

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Article 9 – Regulatory Planning and Regulatory Licensing and Appeals Committees

9.1 Regulatory Planning Committee

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

(b) 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.

(c) Every member who serves on the Regulatory Planning 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 Director of Legal Services.

9.2 Regulatory - Licensing and Appeals Committee

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

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.

Article 10 – Audit Committee

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

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Article 11 – Pensions and Investments Committee

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

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Article 12 – Health and Wellbeing Board

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 Delegation of Responsibility for Functions (Appendix 1).

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Article 13 – Police and Crime Panel

The Council will establish a Police and Crime Panel as a statutory joint committee which will carry out the functions set out in the Scheme of Delegation of Responsibility for Functions (Appendix 1).

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Article 14 – Corporate Parenting Board

The Council will establish a Corporate Parenting Committee as a statutory joint committee which will carry out the functions set out in the Scheme of Delegation of Responsibility for Functions (Appendix 1).

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Article 15 – Other Joint Committees

In accordance with Article 17, the following Joint Committees with other local authorities have been established.

- (a) D2N2 Infrastructure and Investment Board
- (b) D2 Economic Prosperity Board

The functions of these Committees are set out in the Scheme of Delegation of Responsibility for Functions (Appendix 1).

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Article 16 – The Governance and Ethics Committee

16.1 Composition

- (a) The Council will establish a Governance 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 Governance and Ethics Committee and that member may not be the Chairman of the Committee;
- (c) The Committee will comprise 8 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); and
- (d) The Committee may establish sub-committees as appropriate to deal with particular cases.

16.2 Role and Function

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

Article 17 – Joint Arrangements

17.1 Arrangements to promote well-being

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.

17.2 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions which are not Executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with those other local authorities.
- (b) The Leader or Executive may establish joint arrangements with one or more local authorities to exercise functions which are Executive functions. Such arrangements may involve the appointment of joint committees with those other local authorities.
- (c) Except as set out below, the Executive may only appoint Executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Executive may appoint members to a joint committee from outside the Executive in the following circumstances:
 - (i) 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 Executive 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;

(ii) the joint committee is between the County Council and a single district council and relates to functions of the Executive of the County Council. In such cases, the Executive 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 of these cases, the political balance requirements do not apply to such appointments.

17.3 Access to Information

- (a) The Access to Information Rules in Appendix 6 of this Constitution apply.
- (b) If all the Members of a joint committee are Members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the Executive.
- (c) If the joint committee contains Members who are not on the Executive of any participating authority, then the Access to Information rules contained within the Local Government Act 1972 will apply.

17.4 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.
- (b) The Executive may delegate Executive functions to another local authority or the Executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

17.5 Contracting Out

The Council and the Executive may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the

contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making.

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Article 18 – Officers

18.1 Management Structure

- (a) **General.** The Council may engage such employees (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Corporate Management Team.** The Corporate Management Team will comprise the following posts: for the following posts:
- (c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.** The Council will designate the following posts as shown:

Post	Designation
Strategic Director	Head of Paid Service
Director of Legal Services	Monitoring Officer
Director of Finance & ICT	Chief Finance Officer

Such posts will have the functions described in Article 18.2-18.4 below.

- (d) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is illustrated at Appendix 16 of this Constitution.

18.2 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

18.3 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure

that it is widely available for consultation by members, employees and the public.

- (b) **Ensuring lawfulness and fairness of decision-making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Executive in relation to an Executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Governance and Ethics Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Governance and Ethics Committee.
- (d) **Conducting investigations.** The Monitoring Officer will conduct investigations into ethical standards matters and make reports or recommendations in respect of them to the Governance and Ethics Committee.
- (e) **Proper officer for access to information.** The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (f) **Advising whether Executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (g) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- (h) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

18.4 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Executive in relation to an Executive function and the Council's external auditor if he or 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) **Administering of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, 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 Finance Officer will provide financial information to the media, members of the public and the community.

18.5 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

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

18.6 Conduct

Officers will comply with the Officers Code of Conduct referred to in Appendix 12 of this Constitution.

18.7 Employment

The recruitment, selection and dismissal of officers will comply with the policies of the Council and the Officer Employment Procedure Rules set out in Appendix 9 of this Constitution.

18.8 Statutory Scrutiny Officer

Under the provisions of the Local Democracy, Economic Development and Construction Act 2009, the Democratic and Registration Services Manager has been designated as the County Council's Statutory Scrutiny Officer.

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Article 19 – Finance, Contracts and Legal Matters

19.1 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Appendix 8(b) of this Constitution.

19.2 Contracts

Every contract made by the Council will comply with the Standing Orders Relating to Contracts set out in Appendix 8(b) of this Constitution.

19.3 Legal Proceedings

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

19.4 Authentication of documents

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

Any contract entered into on behalf of the local authority in the course of the discharge of an Executive function shall be made in writing.

19.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Director of Legal Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Director of Legal Services should be sealed. The affixing of the Common Seal will be attested by the Director of Legal Services, Assistant Director of Legal Services or Principal Solicitor. An entry of every sealing of a document shall be made and consecutively numbered in a book provided for the

purpose and signed by the person who was present at the sealing and attested the seal.

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Article 20 – Review and Revision of the Constitution

20.1 Duty to monitor and review the Constitution

The Governance and Ethics Committee will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

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

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

20.2 Changes to the Constitution

Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Governance and Ethics Committee.

Article 21 – Suspension, Interpretation and Publication of the Constitution

21.1 Suspension of the Constitution

Limit to suspension. The Articles of the Constitution may not be suspended. The Rules of Procedure (Appendix 3) may be suspended by the full Council to the extent permitted within those Rules and the law.

21.2 Interpretation

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

21.3 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 to 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 at County Hall and is updated as necessary.

Appendices

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Appendix 1 – 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 Derbyshire 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 area 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 area 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 two 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 Chief Legal Officer and Chief Finance Officer 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 Director of Legal Services.

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 area 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. PRINCIPLES OF DELEGATION

The principles guide the allocation of responsibility for decision-making at Cabinet Member and Strategic Director and Director level.

In respect of matters delegated from Cabinet to individual Cabinet Member, the focus would be on policy issues within the policy and expenditure frameworks agreed by Council/Cabinet:-

- Policy matters, internal to the service, and required to provide guidance to officers to ensure significant policy decisions are implemented
- Details of policy matters delegated by Cabinet once principles have been agreed
- Expenditure items not specifically detailed within Service Plans but not sufficiently significant in scale to refer to Cabinet
- Responses to consultation documents not referred to Cabinet.

In respect of matters delegated from Cabinet to Strategic Directors or Directors in consultation with Cabinet Members, the focus would be on service management issues with policy or political implications (no surprises policy)

- Significant management decisions which could have an adverse or controversial impact on the delivery of services or achievement of agreed targets
- Development of Service Plans and Policy Statements for consideration by Cabinet

In respect of matters delegated from Cabinet to a Strategic Director or Director these would relate solely to the management of services and resources covering:-

- Management of services within the framework of the Council Plan, Service Plans and Council policies and standards agreed by Members
- Management of resources within the framework of the corporate strategies (i.e. Financial, Information & Communications Technology, Procurement, Human Resources and Asset Management) agreed by Members.

C. SCHEME OF DELEGATION

Aims

Democratic accountability should be the key aim of the Scheme of Delegation together with:-

- Member authority for policy/strategic decisions
- Effective scrutiny of policy/strategic issues
- Officer responsibility for service delivery
- Effective monitoring of service performance.

Member Advantages

The Scheme of Delegation details below the decisions to be taken at the different levels. For Leading Members it will deliver the:-

- Ability to control key/strategic decisions in Council and Cabinet
- Opportunity to consider and shape policy within the Cabinet
- Involvement in Council Plan/Budget formulation in informal 'Star Chamber' type arrangements.

For individual Cabinet Members the advantages are:-

- Enhanced authority and responsibility to implement policy within agreed frameworks
- Increased ability to take speedier policy decisions
- Greater involvement in shaping service delivery in line with policy
- Improved information on service activities and executive decisions
- Improved service personal/political profile
- Protection of personal positions and interests through collective responsibility in Council/Cabinet and support from Strategic Directors or Directors.

Other councillors will see improvements through:-

- Greater involvement, given the range of decisions proposed for Council
- An enhanced role through Improvement and Scrutiny Committees
- More responsibility for inspecting and monitoring service delivery within their local area
- Increased influence via the Sustainable Community Strategy Plan etc in shaping partner organisation activity.

Member-Officer Relationships

The Scheme of Delegation will only work effectively if there is mutual understanding and trust between Members and Officers.

However, to support the Scheme of Delegation and particularly where matters are delegated from Cabinet to Cabinet Member and Strategic Directors or Directors, it is suggested that:-

- 'Service Plans' should be of sufficient detail to provide an effective framework for decisions
- Information on service delivery should be enhanced to ensure that members know what is going on without having to ask
- Protocols, or sets of criteria, for the detailed implementation of specific policy or service areas should be agreed between the Cabinet Member and Strategic Directors or Directors
- The principle is reinforced that Strategic Directors or Directors err on the side of caution in informing members of decisions that might have political implications
- Decisions delegated to officers within departments are dealt with in a structured way with proper records and audit trails so it is clear who is responsible and what the reasons were for the decisions.

D FULL COUNCIL

Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:-
- Annual Library Plan;
 - Children's and Young People's Plan;
 - Community Care Plan;
 - Sustainable Community Strategy;
 - County Community Safety Agreement;
 - Local Transport Plan;
 - Plans and strategies which together comprise the Development Plan;
 - Youth Justice Plan;
 - Council's Corporate Plan;
 - Food Law Enforcement Service Plan;
 - Adult Services Plan;
 - and any other Strategy, Plan or Agreement that requires the approval of full Council.
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and, if required, the setting of virement limits different to those in Financial Regulations.

Functions of the Full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework and the budget;
- (c) subject to the urgency procedure contained in the Access to Information Procedure 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;

- (d) appointing the Leader;
- (e) agreeing or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;
- (g) adopting a Members' allowances scheme under Appendix 15;
- (h) changing the name of the area;
- (i) confirming the appointment of the head of paid service;
- (j) making, amending, revoking, re-enacting or adopting bye-laws and promoting or opposing the making of local legislation or personal Bills;
- (k) all other matters which, by law, must be reserved to Council.

Council Meetings

There are three types of Council meeting:-

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

and they will be conducted in accordance with the Council Procedure Rules in Appendix 3 of this Constitution.

E. CABINET

The Cabinet will be responsible for guiding the Council in the formulation of its corporate plan of objectives and key priorities. Within the policy framework, budgets and major plans approved by the full Council, the Cabinet will have executive responsibility for the implementation of the Council's key goals and objectives.

It will operate within the Scheme of Delegations set out in this document.

The Leader chairs the Cabinet and appoints six members as Cabinet Members and allocates cross-service Portfolio responsibilities to the Cabinet Members.

Matters for Cabinet

The Local Government Act 2000 delegates most functions to the Cabinet or Executive, for example.

- Policy formulation within and across services
- Performance indicator and target setting
- Recommending Corporate Plans to Council
- Recommending Service Plans to Council
- Agreeing variations to Service Plans
- Monitoring Council Plan and Best Value targets
- Monitoring Service Plan delivery
- Preparing budget estimates
- Monitoring revenue/capital budget spend
- Reviewing progress on major capital schemes and other service developments
- Agreeing major organisational changes
- Agreeing virement between service areas
- Agreeing externally funded initiatives not included in Service Plans
- Agreeing detailed policy implementation criteria
- Agreeing Best Value Review reports
- Agreeing policy representations to Government
- Agreeing representation on 'larger than local' county, regional and national bodies.

F. CABINET MEMBER PORTFOLIOS

Cabinet Members are authorised to make decisions required in the area of their individual Cabinet Portfolio.

- (a) Cabinet Members may take policy, budget and expenditure decisions in accordance with the principles set out in paragraph 2.6 above.
- (b) Cabinet Members may take decisions on tenders and contracts in accordance with Standing Orders In Relation To Contracts.
- (c) Cabinet Members may take decisions on virement, audit, debt write-off and placing of orders in accordance with Financial Regulations.
- (d) Cabinet Members may deal with certain petitions in accordance with the Council's Petition Scheme.
- (e) Cabinet Members may make decisions on:
 - (i) appointment of Members to outside bodies (Leader of the Council)
 - (ii) appointment of governors to local authority schools (Cabinet Member for Children's Services)
 - (iii) attendance of other Members at courses and conferences
 - (iv) grants administered by the Council.
- (f) The Cabinet Member for Council Services may take decisions concerning the acquisition or disposal of land.

Strategic Leadership, Culture and Tourism

- Council Strategic Policy
- Council Plan
- Budget
- Strategic Budget Monitoring
- Public Relations
- Policy & Research

- External Relations (East Midlands Councils, Local Government Association, Central Government & MPs)
- Local Enterprise Partnership
- DEP and LEP Liaison
- Twinning
- Tourism
- Libraries, Museums, Arts and Heritage
- Archives and Modern Records

Highways, Transport and Infrastructure

- Local Planning Frameworks
- Housing and Infrastructure
- Land Reclamation
- Strategic Planning
- Minerals and Waste Planning
- Waste Management
- Digital Derbyshire
- Highways and Bridges
- Street Lighting
- Footpaths
- Road Safety
- Public Transport
- Community Transport
- The Countryside
- Council Transport Co-Ordination

Adult Care

- Home Care
- Residential Care
- Day Care
- Developing whole Person Care
- Housing Related Support
- Safeguarding
- Adults with Learning Difficulties
- Adults with Physical Disabilities
- Adults with Mental Ill-Health
- Multi-Agency Partnerships
- Personalisation
- Links with Health and Voluntary Sector

Council Services

- Asset Management
- Efficiency and Value for Money
 - Service Re-design
 - Property Rationalisation
 - County Transport Co-ordination
- Finance and Budget Monitoring
- Procurement
- Human Resources
- Legal and Democratic Services
- Property
 - Renovation and Energy Efficiency
 - Carbon Management
 - Climate Change
- Information and Communications Technology Services
- Elections

Economic Development and Regeneration

- Local Enterprise Partnership
- Neighbouring Local Enterprise Partnerships
- External Funding
- Economic Development
- Local Economic Strategy and Assessment
- Inward Investment and Indigenous Growth
- Apprenticeships
- Business Support and Skills
- Markham Vale

Health and Communities

- Health and Wellbeing Board
- Relationship with the NHS
- Public Health
- Health Improvement
- Developing whole Person Care
- Engagement with Communities
- Equalities
- Community Cohesion
- Community Consultation and Community Leadership
- Voluntary Sector
- Crime and Disorder and Partnerships
- Domestic Violence
- Action on Drugs and Alcohol
- Emergency Planning

- Trading Standards
- Sports Development
- District and Parish Council Liaison
- Registration Services
- Coroner's Services

Young People

- Improving Outcomes for Young People
- Children's Services Planning
- Multi-agency Partnerships
- Safeguarding
- Children's Disabilities
- Engagement with Young People
- Engagement with Parents and Carers in Service Design
- Youth Service
- Early Years and Childcare
- Children's Centres
- Links to Voluntary Sector
- School Capital Programme
- Surplus Places
- School Support – Personnel, Finance and IT
- School Admissions
- School Improvement
- Governor Support
- Home to School Transport
- Special Education's needs
- Adult Education
- Careers Information, Advice and Guidance Service
- FE Colleges
- Links to Academies
- Youth Offending
- Corporate Parenting

G. IMPROVEMENT AND SCRUTINY COMMITTEES

The Council will appoint the four Improvement and Scrutiny Committees, listed below, to discharge the functions conferred by section 21 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the following table:

Committee	Scope
Resources	<p><u>Council Services:</u> Asset Management, Efficiency and Value for Money (Service re-design, property rationalization, County transport co-ordination), Finance and Budget Monitoring, Procurement, Human Resources, Legal Services, Property (Renovation and Energy Efficiency, Carbon Management, Climate Change), Information & Communications Technology; ;</p> <p><u>Strategic Leadership, Culture & Tourism:</u> Council Strategic Policy, Council Plan, Budget, Strategic Budget Monitoring, Public Relations, Policy & Research, External Relations (East Midlands Councils, Local Government Association, Central government & MPs). Local Enterprise Partnership, DEP and LEP Liaison;</p> <p><u>Economic Development & Regeneration:</u> Local Enterprise Partnership, Neighbouring Local Enterprise Partnerships, External Funding, Economic Development, Local Economic Strategy and Assessment, Inward Investment and Indigenous Growth, Apprenticeships, Business Support and Skills, Markham Vale;</p> <p><u>Health and Communities:</u> Registration Service, Coroner's Service;</p>
Places	<p><u>Health and Communities:</u> Engagement with communities, Equalities, Community Cohesion, Community Consultation and Community Leadership, Voluntary Sector, Crime and Disorder Partnerships, Domestic Violence, Action on Drugs and Alcohol, Emergency Planning, Trading Standards, Sports Development, District and Parish Council Liaison;</p> <p><u>Highways, Transport & Infrastructure:</u> Local Planning Frameworks, Housing and Infrastructure, Land Reclamation, Strategic Planning, Minerals and Waste</p>

	<p>Planning, Waste Management, Digital Derbyshire, Highways and Bridges, Street Lighting, Footpaths, Road Safety, Public Transport, community Transport, The Countryside, Council Transport Co-Ordination;</p> <p><u>Strategic Leadership, Culture & Tourism:</u> Twinning, Tourism, Libraries, Museums, Arts and Heritage, Archives and Modern Records;</p> <p><u>Scrutiny of Flood Risk Management:</u> The Local Government Act 2000 (Section 21) requires that a local authority which is a lead local flood authority for an area in England must have arrangements to review and scrutinize flood risk management functions that may affect the local authority's area. A risk management authority must comply with a request made by a scrutiny committee for information or a response to a report;</p> <p><u>Crime and Disorder Committee:</u> The Police and Justice Act 2006 (Section 19) requires every local authority to have a "crime and disorder committee" which must scrutinise the delivery of crime and disorder strategies. Authorities which are delivering these strategies and which are subject to a report from such a committee must respond to the report and have regard to it when exercising its functions. They are also subject to a requirement to provide information and attend meetings of the committee to answer questions. These committees are distinct from the 'Police and Crime Panels' that scrutinise directly-elected Police and Crime Commissioners.</p>
People	<p><u>Adult Care:</u> Home Care, Residential Care, Day Care, Developing whole Person Care, Housing related support, Safeguarding, Adults with Learning Difficulties, Adults with Physical Disabilities, Adults with Mental Ill-Health, Multi-Agency Partnerships, personalization, Links with Health and Voluntary Sector;</p> <p><u>Young People:</u> Improving outcomes for young people, Children's Services Planning, Multi-Agency Partnerships, Safeguarding, children's Disabilities, Engagement with Young People, Engagement with Parents and Carers in Service Design, Youth Service, Early Years and Childcare, Children's Centres, Links to Voluntary Sector, School Capital Programme, Surplus Places, School Support - Personnel,</p>

	Finance and IT, School Admissions, School Improvement, governor Support, Home to School Transport, Special Educational Needs, Adult Education, Careers Information, Advice and Guidance Service, FE Colleges, Links to Academies, Youth Offending, Corporate Parenting.
Health	<p>To review and scrutinise any matter relating to the planning and provision of health services in the area, including:</p> <ul style="list-style-type: none"> • Health and Wellbeing Board • Relationship with the NHS • Public Health • Health Improvement • Developing whole person care <p>The Committee is responsible for scrutinizing any major health service reconfigurations in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.</p> <p>The Health Scrutiny Committee is required to participate in Joint Health Scrutiny Committee arrangements with other local authorities. On these occasions it is appropriate for the Chairman or Vice Chairman to represent the Committee.</p>

General Role

Within their terms of reference, the Improvement and Scrutiny Committees will:

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) make reports and/or recommendations to the full Council and/or the Executive and/or any policy, joint or area committee in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants; and
- (iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive.

Specific Functions

- (a) **Policy development and review.** The Improvement and Scrutiny Committees may:

- (i) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) question members of the Executive and committees and chief officers about their views on the issues and proposals affecting the area; and
- (v) 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.

(b) **Scrutiny.** The Improvement and Scrutiny Committees may:

- (i) review and scrutinise the decisions made by and performance of the Executive and/or committees and Council officers both in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question members of the Executive and or committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address an Improvement and Scrutiny Committee and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with their consent).

- (c) **Best Value.** To oversee specific Best Value reviews undertaken on the Council's functions; receive progress reports; and make recommendations for consideration by the Executive on measures to be implemented.
- (d) **Annual Report.** The Improvement and Scrutiny Committee must report annually to full Council on their working and make recommendations for future work programmes and amended working methods if appropriate.
- (e) **Officers.** The Improvement and Scrutiny Committees may exercise overall responsibility for the work programme of the officers employed to support their work.

Proceedings of Improvement and Scrutiny Committees

The Improvement and Scrutiny Committees will conduct their proceedings in accordance with the Improvement and Scrutiny Procedure Rules set out in Article 8 of this Constitution.

H. REGULATORY PLANNING COMMITTEE

To be confirmed.

DRAFT

I. REGULATORY LICENSING AND APPEALS COMMITTEE

To be confirmed.

DRAFT

J. AUDIT COMMITTEE

To be confirmed.

DRAFT

K. PENSIONS AND INVESTMENTS COMMITTEE

To be confirmed.

DRAFT

L. HEALTH AND WELLBEING BOARD

Core strategic functions of the Derbyshire HWB

Provide strategic leadership and direction for the health and wellbeing agenda in Derbyshire by:

- Determining and outlining priorities for improving the health and wellbeing of the population of Derbyshire, with a particular focus on tackling health inequalities and preventing ill-health through consideration of issues linked to the wider determinants of health.
- Holding organisations and partners to account for delivering against the priorities outlined in the Health and Wellbeing Strategy.
- Working as part of the wider system to address strategic challenges for health

and care, with a particular focus where appropriate of working collaboratively with Derby City Health and Wellbeing Board in relation to identified joint priorities.

- Exploring opportunities to improve health and wellbeing in Derbyshire, building on the shared assets and leveraging additional investment where possible from the public, voluntary and private sectors.
- Championing prevention and population health as important strategic issues and
- influencing organisations and partnerships to reflect this in their work.

The strategic function will be supported by the following actions:

Identify and develop a shared understanding of the needs and priorities for population health and wellbeing in Derbyshire through the development of a Joint Strategic Needs Assessment (JSNA) and utilising other locally available evidence regarding the health needs of the population. The Board will:

- Ensure the Derbyshire JSNA is reviewed, refreshed and further developed to reflect the latest qualitative and quantitative evidence.
- Ensure the JSNA drives the development of a Health and Wellbeing Strategy (HWBS) which is outcomes focused.
- Prepare, publish and oversee the HWBS to ensure that the needs identified in the JSNA are delivered in a planned, coordinated and measured way.
- Ensure the HWBS priorities shape and influence decision making and commissioning activity and where appropriate the HWB hold organisations or

partnership groups to account to ensure the effective delivery of the priorities outlined.

- Ensure that where appropriate system wide delivery plans are in place to support the HWBS strategic priorities and outcomes.
- Challenge performance against the outcomes outlined in the HWBS via the HWB dashboard indicators which make links to performance frameworks for the NHS, public health and local authorities.
- Develop mechanisms to measure, monitor and report improvements in health and wellbeing outcomes for Derbyshire.

Ensure there are effective and appropriate mechanisms to communicate, engage and involve local people and stakeholders in Derbyshire in relation to health and wellbeing. The Board will:

- Champion public engagement involvement and co-production in strategies and documents that impact on population health.
- Ensure that appropriate structures and arrangements are in place to ensure the effective engagement and influence of local people and stakeholders in decision-making.
- Represent Derbyshire in relation to health and wellbeing issues at a regional and national level where appropriate.
- Work closely with the Derbyshire Healthwatch to ensure that appropriate engagement and involvement with patients and service users.

Membership

The HWB will involve NHS Provider organisations and have a CCG Vice-Chair in line with national best practice guidance. The Cabinet Member for Health and Communities, Derbyshire County Council will Chair the Board and Vice-Chairs are indicated in the membership list below should the Chair be unable to attend a meeting. The full HWB membership will comprise:

- Cabinet Member for Health and Communities (Chair) (Statutory)
 - Accountable Officer for Derbyshire Clinical Commissioning Groups (Statutory)
- (Vice-Chair)
- One CCG Governing Body Chair representative on behalf of all Derbyshire Clinical Commissioning Groups (Statutory)
 - Strategic Director Adult Care, Derbyshire County Council (Statutory)
 - Strategic Director Children's Services, Derbyshire County Council (Statutory)

- Director of Public Health, Derbyshire County Council (Statutory)
- One representative from Healthwatch Derbyshire (Statutory)
- Cabinet Member for Adult Care
- Cabinet Member for Young People
- Chair of 3D to represent the voluntary sector
- One officer rep from Provider Alliance Group to represent officers from Derbyshire NHS Providers
 - Chair of Clinical Professional Reference Group to provide clinical view from NHS Providers
 - The Chair of Tameside and Glossop Single Commission
 - Two District Council elected members on behalf of all district councils in Derbyshire
 - A District Council Chief Executive to champion wellbeing on behalf of all district councils in Derbyshire
 - A District Council Chief Executive to champion housing on behalf of all district councils in Derbyshire
- Police and Crime Commissioner for Derbyshire
- One senior officer representative from Derbyshire Constabulary
- One senior officer representative from Derbyshire Fire and Rescue Service
- One senior officer from East Midlands Ambulance Service NHS Trust
- STP Senior Responsible Officer (if not already represented on the Board)

The Board can co-opt additional members as it considers appropriate in relation to HWBS priorities.

Both NHS England and Public Health England can attend the Board meetings as required, but in relation to a specific issues or area of interest.

Specific officers may be asked to attend one or a series of HWB meetings to provide detailed insight and input to particular topics or issues, such as one of the HWB priorities.

Governance

Agenda Planning

The Chair and Vice-Chairs in conjunction with the Strategic Director Adult Care at

Derbyshire County Council, will set the agenda for future Health and Wellbeing Boards. All Board members will be asked to put forward reports for consideration prior to agendas being finalised.

Reporting

Reports tabled to the HWB will need to make a clear recommendation to the Health and Wellbeing Board and also demonstrate how they are delivering against HWBS priorities. Reports for information and noting will be circulated electronically to the Board between meetings to ensure that information is shared in a timely manner.

Delivery of pieces of work

Work will be delivered by established system groups and HWB will direct and commission specific pieces of work via Board members who will need to action, coordinate and feedback to the Board within agreed timescales.

Task and Finish Groups

Task and Finish Groups will be established by exception to take forward key pieces of work for the HWB. They will be chaired by HWB members and include representatives from HWB partners and wider stakeholders.

Relationship with other Boards

The governance diagram at the end of this document sets out the relationship between the HWB and other key Boards and programmes of work in Derbyshire. A separate protocol will be developed setting out the relationship between the HWB and STP to ensure that the HWB can provide appropriate challenge to the STP Board and associated delivery groups.

Meetings of the Board Frequency

The HWB will meet on a quarterly basis. The date, time and venue of meetings will be fixed in advance by the Board and an annual schedule of meetings will be agreed.

Meetings will normally take place at County Hall, Matlock unless the Health and Wellbeing Board is required to visit another venue or participate in a joint session with Derby City Health and Wellbeing Board. Additional meetings may be convened at the request of the Chair or Vice-Chair.

Voting

At this stage of its development the HWB will operate on a consensus basis.

Declaration of Interests

Any interests held by members or co-opted members should be declared on any item of business at meeting in accordance with the Council's Code of Conduct for Members and the Localism Act 2011.

Quorum

A quorum of five will apply for meetings of the HWB including at least one representative from the County Council and one representative of the CCGs.

Access to Information/Freedom of information

The Board shall be regarded as a County Council committee for access to information purposes and meetings will normally be open to the press/public.

Public questions

Public questions must be tabled in advance and in line with the procedures for Full Council and will be considered at the Chair's discretion to ensure they are relevant to the work of the Health and Wellbeing Board. Questions must be asked exactly as submitted, and no supplementary questions are allowed.

Board papers

The agenda and supporting papers shall be circulated at least five clear working days in advance meetings and published on the County Council website. Minutes will be published on the County Council web site.

Scrutiny

Decisions of the HWB will be subject to scrutiny, but will not be subject to the "call-in powers" of the Improvement and Scrutiny Committee.

Review

These terms of reference will be reviewed annually or earlier if required.

M. POLICE AND CRIME PANEL

1. To review the draft police and crime plan, or draft variation, given to the Panel by the Police and Crime Commissioner. The Panel must make a report or recommendations on the draft plan or variation to the Commissioner.
2. To review the annual report and make a report or recommendations on the report to the Commissioner. The Panel is to arrange a public meeting at which they ask the Commissioner questions, as appropriate, on the annual report.
3. To hold a confirmation hearing and review, make a report, and recommendation in respect of proposed senior appointments made by the Police and Crime Commissioner. This includes:-
 - (a) the Commissioner's Chief Executive;
 - (b) the Commissioner's Chief Finance Officer;
 - (c) a Deputy Police and Crime Commissioner; and
 - (d) the Chief Constable.

The Panel has the power to veto the appointment of the Chief Constable.

4. To review and make a report and recommendations (as necessary) on the proposed precept. The Panel has the power to veto the proposed precept.
5. To review or scrutinise decisions made, or other action taken, by the Police and Crime Commissioner in connection with the discharge of the Commissioner's functions.
6. To make reports or recommendations to the Police and Crime Commissioner with respect to the discharge of the Commissioner's functions.
7. To support the effective exercise of the functions of the Police and Crime Commissioner.
8. To fulfil functions in relation to complaints about conduct matters, in accordance with the responsibilities accorded to the Panel by the Police Reform and Social Responsibility Act 2011 (the Act).
9. To appoint an Acting Police and Crime Commissioner if necessary.

10. To suspend the Police and Crime Commissioner if it appears to the Panel that the Commissioner has been charged with a relevant offence (as defined by the Act).
11. To exercise any other functions delegated to the Police and Crime Panel under the Act, as required.

DRAFT

N. CORPORATE PARENTING BOARD

To be confirmed.

DRAFT

O. JOINT COMMITTEES OF THE EXECUTIVE

To be confirmed.

DRAFT

P. GOVERNANCE AND ETHICS COMMITTEE

To be confirmed.

DRAFT

Q. LOCAL CHOICE FUNCTIONS

These are allocated as follows:

Local Act Functions	Cabinet
Appeals against authority decisions	Regulatory – Licensing and Appeals Committee
Arrangements for Pupil Exclusion Appeals	Cabinet
Arrangements for Administration Appeals	Cabinet
Appeals by Governing Bodies	Cabinet
Best Value Reviews	Improvement and Scrutiny Committee and Cabinet
Contaminated Land	Cabinet
Obtaining Information concerning interests in land	Cabinet
Agreements for Execution of Highways works	Cabinet
Appointments to outside bodies	Council

All of these matters may be further delegated by Cabinet or the body mentioned. Established arrangements will remain as they are, subject to any review.

Functions not to be the responsibility of the Authority's Executive

These are allocated as follows:

a) Functions relating to Town and Country Planning and Development Control	Regulatory – Planning Committee
b) Functions relating to licensing and Registration	Regulatory – Licensing and Appeals Committee
c) Functions relating to Health and Safety at work	These are powers that assist in enforcement and are delegated to Strategic Directors and Directors.

d) Functions relating to elections	Director of Legal Services
e) Functions relating to name and status of areas and individuals	Full Council
f) Power to make, amend, revoke or re-enact bye-laws	Full Council
g) Power to promote or oppose local or personal bills	Full Council
h) Functions relating to the Derbyshire County Council Pension Fund	Director of Finance and ICT Pensions and Investment Committee
i) Miscellaneous Functions	
Public rights of way and other functions relating to highways	Regulatory – Licensing and Appeals Committee
Power to make Standing Orders	Full Council
Power to appoint staff	Full Council
Dealing with maladministration	Governance and Ethics Committee
Authority's Statement of Accounts, Income and Expenditure and Balance sheet	Audit Committee Full Council
Duty to make arrangements for proper administration of financial affairs	Director of Finance and ICT Full Council

These matters may also be delegated, but not to Cabinet. Established arrangements will remain as they are, subject to any review.

R. POWERS DELEGATED TO STRATEGIC DIRECTORS IN CONSULTATION WITH CABINET MEMBERS

1. This Scheme delegates to the Strategic Directors and other officers the powers and duties necessary for the discharge of the Council's functions subject to the provisions of Part A and Part B below. It is adopted with the aim of streamlining and simplifying the decision-making processes of the Council and accordingly, the Scheme should be interpreted widely rather than narrowly. Where functions are delegated, these should be taken to include all powers and duties necessary to carry out those functions under all present and future legislation and all incidental powers including power to serve statutory notices (after consultation with the Director of Legal and Democratic Services (Monitoring Officer) where specified, and carry out works in default.
2. Part A of this document sets out the general delegations. They are all subject to the provisions of Part B of this document.
3. Part B of this document sets out the restrictions and conditions applicable to the exercise of any delegated powers by Strategic Directors and Directors including the general powers and the specific powers in Part C.
4. Part C sets out the specific delegations to departmental Strategic Directors and Directors.

PART A

- A1** Strategic Directors will take all action necessary to implement their Service Development Plan within the terms in which the Plan was approved by the County Council.
- A2** Strategic Directors may, within the approved budget, therefore, exercise all matters of day-to-day administration and operational management of the services and functions for which they are responsible to the County Council, the Cabinet or a committee which delegation shall include taking and implementing decisions including in particular any decision which is not a key decision and which is concerned with maintaining the operation or effectiveness of those services or with a matter incidental to the discharge of the Council's functions or which falls within the scope of a policy decision taken by the Council.

A3 Conditions

- 3.1 The scheme does not delegate to the Strategic Directors or other Officers any key decisions or matters delegate individual members of the Council's Cabinet. Key decisions are defined in Article 13.
- 3.2 All powers and duties that a Strategic Director or other Officer is authorised to exercise or perform must be exercised or performed on behalf of and in the name of the Council and in accordance with the Constitution.
- 3.3 Where any matter involves professional or technical considerations not within this sphere of competence of the Strategic Directors or other Officers they must consult the appropriate professional or technical Officer of the Council before authorising action.
- 3.4 Appointments to act as authorised or proper Officers must be made by the Director of Legal and Democratic Services (Monitoring Officer) unless specified later in the Scheme.
- 3.5 The Director of Legal and Democratic Services (Monitoring Officer) is appointed to act as authorised or proper Officer for the purposes of any Act of Parliament or statutory instrument where qualified to do so and another Officer has not been appointed.
- 3.6 The Director of Legal and Democratic Services (Monitoring Officer) may appoint other Officers to act as authorised or proper Officers for the purposes of any Act of Parliament or statutory instrument and to appear on behalf of the Council iv proceedings before Magistrates or County Court.
- 3.7 The leader of the Council and the appropriate Strategic Director must be consulted about responses to consultation papers issued by Government Departments or National or Regional Bodies. The appropriate Member of the Council Cabinet must be consulted about responses to long term or strategic plans of neighbouring planning authorities.
- 3.8 Consultants may only be appointed in accordance with the contract procedure rules.

- 3.9 Any reference to a Strategic Director or other Officer includes any other person authorised in writing by that Officer to act on their behalf.
- 3.10 In addition to the general powers conferred upon them as Strategic Director, these Officers will be authorised as to exercise all the powers and duties specifically conferred on subordinate Officers in their department. All powers and duties conferred upon subordinate Officers will be exercised in accordance with any direction issued by their Strategic Director, save for the powers and duties conferred upon the Monitoring Officer and the Chief Finance Officer.
- 3.11 Reference to any statutory provision includes any statutory provision amending, consolidating or replacing it for the time being in force.

A4 Staffing Conditions

- 4.1 The Strategic Directors will be responsible for appointing, managing, disciplining and dismissing all employees within their Departments subject to complying with:
- Corporate Employment Policies and Conditions of Service.
 - Any appropriate schemes or arrangements laid down by the Council or the Council Cabinet.
 - Any directions that may be issued from time to time by the Director of Legal Services (Monitoring Officer).
 - The Officer and Employment Procedure Rules.
- 4.2 The following matters must be dealt with in conjunction with the Director of the Organisational Development and Policy:
- Departmental Monitoring of Equal Opportunities, attendance, ill health retirement etc.
 - Implementation of Workforce Development Plans.
 - Temporary Secondments and similar arrangements in accordance with the Council's policies and procedures.
 - Appeals against discipline, grievance etc.
 - Ill health retirements within Policy.
 - Work experience placements.
 - Secondary employment.
 - Reviewing and authorising changes to departmental structures and establishments.

- Authorising overtime payments for employees not otherwise entitled.
- In consultation with the Director of Finance and ICT and the Director of Legal and Democratic Services, authorising payments for employees in cases of early retirement, voluntary redundancy and compulsory redundancy.
- Authorising the creation of additional temporary posts where budgetary provision exists, following formal evaluation of posts.
- Paying compensation to employees for pain and suffering incurred by them as a result of assault and or harassment and/attacked by animals whilst undertaking their duties and responsibilities.
- Authorising the payment of injury allowances.

A5 Sub-delegation: This Scheme includes the power for officers to further delegate any function which has been delegated to them under this scheme, to another officer or to other officers. Every such sub-delegation shall be in writing, setting out the name of the delegate, the terms and conditions upon which that function is to be performed, and accountability for the performance of the sub-delegated function. The officer making such sub-delegation shall record the sub-delegation in a register maintained for the purpose by the Director of Legal Services (Monitoring Officer).

PART B

B1 Delegations to Strategic Directors and Directors do not include:-

- (a) any matter reserved to the full Council;
- (b) any matter which by law may not be delegated to an officer;
- (c) any matter reserved to the Cabinet or a Committee;
- (d) any matter which constitutes a key decision.

B2 The exercise of delegated powers by a Strategic Director or Director shall:-

- (a) be in accordance with the policies and plans of the County Council and their decisions from time to time,
- (b) be in accordance with the County Council's Constitution; and
- (c) not be outside the powers and duties conferred on the Council by

law.

B3 Strategic Directors and Directors may exercise delegated powers provided that where there are policy or political issues, this is in consultation with the Cabinet Member holding the appropriate portfolio

in the Cabinet for powers which are the responsibility of Cabinet and in consultation with the Chairman of the appropriate committee for powers which are the responsibility of any committee. Within that consultation, consideration should be given to whether it would be appropriate to consult any other Member or other person prior to exercising any delegated power.

- B4 In exercising delegated powers it is the duty of an officer to whom the exercise of powers is delegated to consult such other officers, Director of Finance & ICT and Director of Legal Services as may be appropriate in the circumstances and to have regard to any advice given.
- B5 In respect of any matter where an officer proposes to exercise delegated powers where there is doubt as to whether the proposed exercise is contrary to the policy framework or contrary to or not wholly in accordance with the budget then the advice of the Director of Finance & ICT and the Director of Legal Services must first be sought.
- B6 Any delegation under Part A of this document is subject to any more specific provision relating to a delegation to a particular Strategic Director or Director under Part C of this document.

S. SPECIFIC POWERS DELEGATED TO STRATEGIC DIRECTORS OR DIRECTORS IN THE DISCHARGE OF THE FUNCTIONS OF THE COUNTY COUNCIL

PART C – INDEX

- Strategic Director – Commissioning, Communities and Policy
 - Director of Legal and Democratic Services (Monitoring Officer)
 - Director of Finance & ICT (Chief Finance Officer)
 - Director of Organisation Development and Policy
 - Director of Property
 - Director of Communities
- Strategic Director – Children’s Services
- Strategic Director – Adult Care and Health
 - Director of Public Health
- Strategic Director – Economy, Transport and Environment
 - Chief Planning Officer

SPECIFIC DELEGATIONS TO STRATEGIC DIRECTORS

Notwithstanding any other provision of this constitution, the Strategic Directors shall have power, after discussion, if practicable, with the leader of the Council or the relevant Cabinet Member or Chairman, to take such action deemed to be necessary and expedient in matters requiring urgent consideration and which, because of the time scales involved, or the need to safeguard the interests of the County Council, cannot be dealt with by submission to the next following meeting of the Council, Cabinet, Cabinet Member or Committee.

SPECIFIC DELEGATIONS

STRATEGIC DIRECTOR – COMMISSIONING COMMUNITIES AND POLICY

1. To be designated as the Head of Paid Service, and where he or she considers it appropriate to do so in respect of any proposals of his or hers with respect to any of the matters specified below, to prepare a report to the authority setting out his or her proposals.
Those matters are –
 - (a) The manner in which the discharge by the authority of their different functions is co-ordinated;
 - (b) The number and grades of staff required by the authority for the discharge of their functions;
 - (c) The organisation of the authority’s staff; and
 - (d) The appointment and proper management of the authority’s staff.

2 Where a Director from Commissioning, Communities and Policy is absent from the workplace for a period of time that requires others to exercise delegated authority in that officer's absence, the Strategic Director for Commissioning, Communities and Policy shall undertake, allocate or re-allocate responsibility for exercising particular delegations to any officer of the council in the interests of effective corporate management as he or she thinks fit, save for that the Head of Paid Service cannot substitute for the Monitoring Officer, and can only substitute for the Chief Financial Officer if they are a fully qualified member of one of the six accountancy bodies that constitute the Consultative Council of Accountancy Bodies (CCAB).

Director of Legal and Democratic Services

1. To be the County Council's solicitor and Chief Legal Officer and in that capacity to take all necessary steps, including the obtaining of Counsel's advice in connection with any matter concerning the County Council.
2. To be the Proper Officer for any purpose for which the County Council has not designated another officer to be Proper Officer.
To maintain the Registers of:
 - i. The financial and other interests of Members and co-opted members of the County Council as required by the Local Government Act 2000.
 - ii. Officers' declarations of interest in contracts and other pecuniary interests.
 - iii. Any other matter relating to the interests of Members and co-opted members which the County Council may from time to time establish.
3. In special circumstances, to approve attendance by Members at conferences and other events for the purposes of Members' Allowances.
4. To prosecute, withdraw, defend, compromise, settle, appeal and appear in proceedings on behalf of the County Council in any court of law, whether criminal or civil, tribunal, inquiry, chamber or other hearing or before any Judge, Registrar, Recorder, Magistrate, Coroner, Inspector, Arbitrator, Mediator, or expert.
5. To designate officers of the County Council as being authorised under Section 223 of the Local Government Act 1972 to institute, prosecute, defend or appear on the County Council's behalf in

proceedings before a Magistrates' Court and to conduct such proceedings notwithstanding that the officer concerned may not be a solicitor holding a current practising certificate.

6. To appoint, in writing, in pursuance of Section 60 of the County Courts Act 1984 (as amended) officers of the County Council to address or appear before the District Judge in the County Court in proceedings which relate to the recovery of possession of a property belonging to the County Council and for the recovery of rent, mesne profits, damages or other sums claimed by the County Council in respect of the occupation by any person of such property.
7. To establish and service a Complaints Review Panel comprising three independent persons (ie not Elected Members) with expert knowledge of Social Services to consider complaints under the terms of the National Health Service and Community Care Act 1989 which Panel is to make recommendations to the County Council on the course of action to be taken about any such complaint.
8. To make arrangements for dealing with the following kinds of appeal under the Schools Standards and Framework Act 1998:
 - Admission Appeals
 - Appeals against exclusion
 - Appeals by Governing Bodies
9. To be the Proper Officer and the County Council's Returning Officer for the purpose of the election of County Councillors and to undertake all the duties of those officers pursuant to the Representation of the People Act 1983 and the Local Government Act 1972.
10. To give public notice of any vacancy in the office of Councillor pursuant to Sections 86 and 87 of the Local Government Act 1972.
11. To act as the Proper Officer for the Council's Registration Service, including:
 - (a) To approve premises for the solemnization of marriages.
 - (b) To carry out the County Council's duties under the Marriage Acts 1949 and 1994 (other than those relating to fees and final appeals)
 - (c) To set such fees as are appropriate for ensuring full costs recovery to the County Council in respect of civil marriage ceremonies on local authority approved premises.
12. To authorise, in cases of urgency and subject to consultation with the Chairman of the Safety of Sports Grounds Panel:-

- (a) an application to a Court under the Safety of Sports Grounds Act 1975 to prohibit or restrict the admission of spectators;
 - (b) the issue of a Prohibition Notice under the Fire Safety and Safety of Places of Sport Act 1987 when the risk to spectators at a ground is so great that until steps have been taken to reduce it to a reasonable level, the admission of spectators ought to be restricted or prohibited.
 - (c) the service of a Preliminary Notice to Enforce Safety at Outdoor Sports Grounds where it is confirmed that a stand provides cover for more than 500 people.
- 13. To make technical amendments to safety certificates.
- 14. In consultation with the Chairman of the Regulatory Planning Committee to decide the final form of the conditions which the County Council would wish to be attached to, and the framework of, any Section 106 Agreement, if the Secretary of State was minded to grant permission for a particular development following an appeal in relation thereto.
- 15. In consultation with the Strategic Director Economy, Transport and Environment to enter into agreements for the execution of highways works under the Highways Act 1980
- 16. To carry out the functions of the Council in relation to commons and town and village greens and in particular:
 - (a) To determine applications to register land as a town and village green.
 - (b) To determine applications to amend the registers of common land and town and village greens.
- 17. Under section 53 of the Wildlife and Countryside Act 1981:
 - (a) determine whether or not to make Definitive Map Modification Orders (DMMOs) except where the Director of Legal Services considers that the case is one which should be determined by the Regulatory, Licensing and Appeal Committee.
 - (b) where opposed DMMOs are to be decided by an Inspector acting on behalf of the Secretary of State, either at a hearing or public inquiry, authorise the stance to be taken by officers.

18. To undertake any revisions or amendments to the Constitution required as a consequence of amendments or variations to legislation, or the implementation of new legislation. Such amendments to be retrospectively approved by Council.
19. To give effect to the wishes of Political Groups on appointments and revocation of appointments to relevant bodies.
20. To appoint an independent person of another authority's Standard Committee, where necessary because of a conflict of interest or non-availability, to serve a temporary member of the Standards Committee.
21. To appoint and revoke appointments to the Independent Appeals Panel.
22. To make arrangements for appeals against School exclusion or admission decisions.
23. To maintain a central record of all delegations under this scheme and make this available for public inspection.
24. To maintain a central record of all delegations under this scheme and make this available for public inspection pursuant to Section 100G Local Government Act 1972.

Democratic and Registration Services Manager

1. To act as the authorised/proper officer for the following matters:-
 - (a) Secretary to the Independent Remuneration Panel for Members' Allowances and
 - (b) Chief Scrutiny Officer.

Director of Finance & ICT

1. To be the Council's Chief Finance Officer under Section 151 of the Local Government Act 1972. This means the Director of Finance & ICT is responsible for determining the way the Council administers its financial systems and processes.
2. To carry out all Treasury Management activities within the Treasury Management Policy Statement and Annual Treasury Management Strategy approved from time to time by the Executive and in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities and the raising of loans and the issuing of County Council bills in the case of emergency.

3. To take and implement any decision which he or she is empowered to take in accordance with Financial Regulations including the Standing Orders relating to Contracts
4. Responsibility for day-to-day management of the Local Government Pension Scheme Fund investments in accordance with the investment strategy determined by the Pensions and Investment Committee.
5. In respect of pensions
 - (a) Commutation of a pension to a lump sum where ill-health retirees have a life expectancy of less than 12 months.
 - (b) Following consultation with the Chairman of the Pensions and Investment Committee, the following decisions relating to individual Scheme Members:-
 - (i) Recovery of pension overpayment.
 - (ii) Putting a deferred pension benefit into payment on compassionate grounds.
 - (iii) Determining co-habitation/ (v) extending the time limit for a decision to be made by a Scheme Member.
6. To be responsible, for the preparation, maintenance, monitoring, review and implementation of the County Council's Information Technology Strategy, which embraces the County Council's Information Security Policy.
7. To act as the Council's Senior Information Risk Officer (SIRO)
8. To undertake any revisions or amendments to the Financial Regulations including the Standing Orders relating to Contracts as required as a consequence of amendments or variations to legislation, or the implementation of new legislation. Such amendments to be retrospectively approved by Council.

Director of Organisation, Development and Policy

1. To develop review and monitor personnel policy and standards across the Council.
2. To establish and maintain effective consultation and negotiation arrangements with recognised Trade Unions.

3. To develop, review and monitor Employment Policy in relation to Equality of Opportunity.
4. In conjunction with the Director of Finance and ICT, to annually review the amounts of compensation provided for in the Council's Employment Policies to make sure they remain at appropriate levels and in line with inflation.
5. To approve the implementation of grades resulting from the job evaluation process.
6. To approve changes to terms of conditions of employment where there is a cost of less than £100,000 in a financial year.

Director of Property

1. To take all necessary steps to secure the cessation of any unauthorised use or occupation of the County Council's land and property assets.
2. To submit all planning and planning related applications, including those for the County Council's own operational development and highway schemes; for the disposal of surplus land/property; for Conservation Area consent; and for Listed Building consent.
3. In consultation with the appropriate Strategic Directors to accept, grant, surrender or review any interests and rights over the Council's existing land and premises as may be deemed necessary or appropriate, subject to the value of the interest not exceeding £100,000. A schedule of such transactions will be maintained and reported quarterly to the Cabinet Member for Council Services.
4. In consultation with appropriate Strategic Directors or Directors to acquire or dispose of interests in land or property as may be deemed appropriate, subject to the value of the interest not exceeding £500,000. A schedule of such transactions will be maintained and reported quarterly to the Cabinet Member for Council Services.
5. In consultation with appropriate Strategic Directors or Directors to accept an auction offer of within 10% of the reserve price on the day of the auction from the auctioneer if the proposed disposal does not reach its reserve.

6. In consultation with the appropriate Strategic Directors or Directors to agree payments or compensation up to a value of £100,000 due to landowners in respect of creation agreements, creation orders or compulsory purchase orders.

Director – Community Services

1. To undertake enforcement and administrative duties under the legislation detailed in the list below:

Animal Health and Welfare

Animal Health and Welfare Act 1984
Animal Health Act 1981 and 2002
Animal Welfare Act 2006
Control of Horses Act 2015

Consumer Credit

Administration of Justice Act 1970 (Section 40)
Consumer Credit Act 1974 and 2006
Malicious Communications Act 1988

Fair Trading

Accommodation Agencies Act 1953
Cancer Act 1939
Climate Change Act 2008
Consumers, Estate Agents and Redress Act 2007
Consumer Rights Act 2015
Companies Act 1985 and 2006
Copyright, Designs and Patents Act 1988
Copyright, etc. and Trade Marks (Offences and Enforcement) Act 2002
Criminal Attempts Act 1981
Customs and Excise Management Act 1979
Education Reform Act 1988
Energy Act 1976
Energy Conservation Act 1981
Enterprise Act 2002
Estate Agents Act 1979
Fair Trading Act 1973
Forgery and Counterfeiting Act 1981
Fraud Act 2006
Hallmarking Act 1973
Housing Act 2004
Olympic Symbol etc. (Protection) Act 1995
Prices Acts 1974 and 1975
Solicitors Act 1974
Telecommunications Act 1984
Theft Acts 1968, 1978 and 1996

Timeshare Act 1992
Trade Descriptions Act 1968
Trade Marks Act 1938 and 1994
Unsolicited Goods and Services Act 1971
Video Recordings Act 1984, 1993 and 2010

Metrology

Weights and Measures Act 1976 and 1985

Quality Standards

Agriculture Act 1970 (Part IV)
Agricultural Produce (Grading and Marking) Acts 1928-31
Food and Environmental Protection Act 1985
Food Safety Act 1990
The Animal Feed (Hygiene, Sampling etc. and Enforcement) (England) Regulations 2015
The Animal Feed (Composition, Marketing and Use) (England) Regulations 2015
The Official Feed and Food Controls (England) Regulations 2009
Medicines Act 1968

Road Traffic

Motor Cycle Noise Act 1987
Road Traffic Act 1988 and 1991
Road Traffic Regulation Act 1984
Road Traffic (Foreign Vehicles) Act 1972

Safety

Anti-Social Behaviour Act 2003
Children and Families Act 2014
Children and Young Persons Act 1933
Children and Young Persons (Protection from Tobacco) Act 1991
Clean Air Act 1993
Control of Pollution Act 1974
Consumer Protection Act 1987
Intoxicating Substances (Supply) Act 1985
Knives Act 1997
Licensing Act 2003
Motor Vehicles (Safety Equipment for Children) Act 1991
Offensive Weapons Act 1996
Psychoactive Substances Act 2016
Tobacco Advertising and Promotions Act 2002

Other

Criminal Justice Act 1988
Criminal Justice and Police Act 2001
Criminal Law Act 1977
European Communities Act 1972

Proceeds of Crime Act 2002

Petroleum and Explosives

Fireworks Act 2003

Health & Safety at Work etc. 1974

Public Health Act 1961 (Section 73)

Together with:

- (a) any Orders or Regulations made thereunder or relating to any of the foregoing or having effect by virtue of the European Communities Act 1972;
 - (b) any offence under any legislation, or at common law, which is of a similar nature or related to the foregoing, including offences of aiding, abetting, counselling and procuring, incitement, conspiracy, perverting the course of justice and criminal attempts; and
 - (a) (c) any modification or re-enactment to the foregoing.
2. To discharge the County Council's functions under section 17 of the Crime and Disorder Act 1998 to prevent crime and disorder.
 3. To authorise the sharing of council information in accordance with section 115 of the Crime and Disorder Act.
 4. To select, acquire and as necessary discard all books and other printed material, recordings, films, pictures and other libraries and archive material.
 5. To collaborate with other libraries and organisations in:-
 6. To dispose of surplus or used library materials.
 - (i) inter-lending of books and other library materials.
 - (ii) reciprocal use of services by non-residents.
 - (iii) the acquisition and storage of books and other libraries and archive materials.
 7. To waive or reduce libraries and heritage charges where the director considers that the circumstances are such that full payment of the charges would cause particular hardship or otherwise be inappropriate.

8. To ensure compliance with the Museum Association Code of Ethics.
9. To permit copying, reproduction and publication of council copyrighted material held in the archive, library and museum collections.
10. To licence the use of library, archive and museum materials by third parties.
11. To approve policies and procedures required for archive and museum accreditation.

STRATEGIC DIRECTOR – CHILDREN’S SERVICES

1. To carry out the functions of the Council as a Childrens’ Services Authority and Local Education Authority, (or Local Authority in the context of children’s social care matters and/or educational matters), including to be the Council’s Director of Children’s Services and undertake the functions required by Section 18 of the Children Act 2004, as amended from time to time.
2. To carry out the functions of the Council’s Local Education Authority (or Local Authority in the context of educational matters) including the functions of the Council relating to education, child employment in 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 general duties under sections 13(1) and 13A of the Education Act 1996 (as amended from time to time)..
4. 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).
5. To undertake all the powers and duties of the County Council as an Adoption Agency having regard to the recommendations of the adoption panel and to approve the charge for home study assessments for inter country adoptions in accordance with the policy agreed by Cabinet, and to appoint the members (except for the appointment of any members who are County Councillors) of the adoption and permanence panels in accordance with the Adoption Regulations 2011 or as amended from time to time.

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 into arrangements with the NHS or other bodies for the exercise of the 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 Section 23(C) to 24(D) of the Children Act 1989 and the Children and Social Work Act 2017 (as amended from time to time) in relation to aftercare arrangements etc.
8. To carry out the functions of the Council under Sections 10 to 13 and 17(A) of the Children Act 2004 (as amended from time to time) in relation to arrangements to safeguard and promote the welfare of children and young person's plans.
9. To carry out the functions of the Council in relation to Early Help/Sure Start and the Childcare Act 2006.
10. To carry out the functions of the Council in relation to youth offending services.
11. To be responsible for the development of corporate parenting.
12. To ensure the sufficiency of the child protection service and to promote and participate fully within multi-agency safeguarding arrangements to ensure that children within the Council's area are adequately safeguarded and protected.
13. To ensure the effectiveness of the Multi Agency Safeguarding Arrangements within Derbyshire in accordance with the Children and Social Work Act 2017 and Working Together to Safeguard Children 2018.'
14. To undertake statutory visits to children's homes and to make permanent or temporary variations in the approved number of places at any children services establishments.
15. To enforce, make applications and representations to a Court or Magistrate and authorise, institute and defend proceedings under any enactment which stand referred to the Cabinet, in consultation with the Director of Legal Services.
16. To grant licences and to approve bodies of persons to enable children to take part in public performances under Section 37 of the Children and Young Persons Act 1963.

17. To respond to alcohol licensing applications to highlight any concerns in relation to child safety.
18. To institute, intervene, or defend, on a County Council's behalf, wardship proceedings and to appear on the Council's behalf on any wardship proceedings involving the County Council in consultation with the Director of Legal and Democratic Services.
19. To approve the utilisation of funds received under Section 106 of the Town and Country Planning Act 1990 to the project named in the relevant Section 106 agreement, up to a maximum value of £150,000 per Section 106 agreement. A schedule of such expenditure will be maintained and reported quarterly to the Cabinet Member for Young People.

STRATEGIC DIRECTOR – ADULT CARE AND HEALTH

1. To exercise the functions of the Council with regard to, powers and duties of an Adult Services Authority under all relevant legislation including, but not limited to social services, safeguarding adults, Mental Health services including the deprivation of liberty and Health functions.
2. To exercise all the powers and duties of the County Council in accordance with general policies from time to time laid down by the Cabinet for the administration of any arrangements made under relevant legislation with respect to services for adults including people with disabilities.
3. To make permanent or temporary variations in the approved number of places at any Adult Social Care establishment.
4. Where litigation is conducted in Court with respect to those who are aged 18 and over, instructions are provided in the name of the Strategic Director for Adult Care and Health.
5. Where a Director from Adult Care and Health is absent from the workplace for a period of time that requires others to exercise delegated authority in that officer's absence, the Strategic Director for Adult Care and Health shall undertake, allocate or re-allocate responsibility for exercising particular delegations to any officer of the council in the interests of effective corporate management as he or she thinks fit.

Director – Public Health

1. To undertake such statutory responsibilities as may be required by legislation or delegated to the authority or the Director by the Secretary of State from time to time.
2. To commission public health services on behalf of the Secretary of State and on behalf of the Council to address local Public Health challenges identified through the Public Health Outcomes Framework and tackle local priorities as set out in the joint Health and Wellbeing Strategy for Derbyshire.
3. To provide public health and population healthcare advice to NHS Commissioners and Providers. Contribute to and influence the work of NHS commissioners, ensuring a whole system approach across the public sector.
4. To authorise Consultants in Communicable Disease Control of Public Health England and/or their deputies to act on behalf of the Council as Proper Officer in the exercise of statutory functions relating to the control of infections and other disease and food poisoning.
5. To authorise allowances to persons excluded from work because of notifiable disease.
6. Lead the Council's development of the Local assessment of health and care needs. This to be done in partnership with local NHS Organisations and Clinical Commissioning Groups with a shared statutory duty to develop and deliver the JSNA for their defined population.

STRATEGIC DIRECTOR – ECONOMY, TRANSPORT AND ENVIRONMENT

- 1 To determine submissions (including reserved matters) and variations to approved submissions made as a requirement of a planning condition or planning obligation except where:
 - (a) in determining the application to which the condition or obligation relates the Regulatory – Planning and Control Committee have indicated that they wish to consider the submission
 - (b) in a case where district or parish council or local Member have been consulted they have submitted a significant objection on planning grounds to the submission

(c) in the view of the Strategic Director – Economy, Transport and Environment the submission which whilst not falling within a or b above has raised considerable public concern or issues which it is proper for the Regulatory – Planning and Control Committee to be aware of before the submission is determined.

- 2 To determine submissions made under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO) where there are no significant objections on planning grounds from the local Member or any other consultee.
- 3 To make and / or enter planning obligations regulating the development or use of land under Section 106 and 106A of the Town and Country Planning Act 1990 and other enabling powers.
- 4 To make directions requiring an application for planning permission in respect of certain proposals for mineral exploration and removal of material from mineral working deposits. (Directions made under Article 7 of the Town and Country Planning (General Permitted Development) Order 1995).
- 5 To agree to requests for extensions of time for the submission of a Scheme of Conditions under the Environment Act 1995 where a concurrent consolidation application for planning permission has been made and the submission of such Scheme would not be required were the planning permission applied for to be granted.
- 6 To determine applications for postponement of mineral review applications and to agree new review dates under Schedule 14 of the Environment Act 1995.
- 7 To approve attendance by officers at meetings with district councils, parish councils or at public meetings in connection with the development control functions of the Authority.
- 8 To authorise officers to give evidence at public inquiries on behalf of the Authority in relation to amended circumstances arising at an inquiry and to deal with submissions in relation to schedules of conditions at an inquiry.

- 9 To determine applications for Certificates of Lawful Use or Development under Sections 191 and 192 of the Town and Country Planning Act 1990.
- 10 To authorise the issue of Enforcement Notices, Stop Notices, Temporary Stop Notices and Breach of Condition Notices
- 11 To apply for an injunction restraining breach of planning control
- 12 To submit comments in relation to proposals for development by public utilities or Government Departments where no significant objections on planning grounds have been raised by the local Member(s).
- 13 To determine proposals made by the County Council under the provisions of the Town and Country Planning General Regulations 1992 for development which the Authority itself proposes to carry out where it is considered to be in accordance with the Development Plan and other policies approved by the Council ie non-statutory policy documents and emerging Development Plan policy and no significant objections on planning grounds* to the development have been received within the prescribed period from the relevant District or Parish Council(s), the local Member(s) or as a result of publicity given to the application.
- 14 To determine planning applications for County Matter development or submissions made for the Review of Mineral Working Sites where the proposal is considered to be in accordance with the Development Plan and other policies approved by the Council ie non-statutory policy documents and emerging Development Plan policy and no significant objections on planning grounds* to the application have been received within the prescribed period from the relevant District or Parish Council(s), the local Member(s) or as a result of publicity given to the application.

* "Significant objection on planning grounds" will be interpreted as an objection on planning grounds which is not capable of being overcome by further negotiation and amendments and/or the imposition of appropriate planning conditions.

- 15 To determine in respect of any planning permission granted whether a proposed variation is major or minor and if minor to authorise such variation.
- 16 To issue all decision notices arising from planning applications under Regulation 3 of the Town and Country Planning General Regulations 1992 and in respect of all County matter applications
- 17 To approve schemes required under an existing planning permission provided no issues have been raised during consultation. In the event that consultees raise any issues approval shall be reserved the Chair or Vice Chair of the Regulatory Planning Committee.
- 18 Unless the observations which the Strategic Director proposes to give would represent a material departure from a policy of the County Council, the County Structure Plan, from a Minerals Local Plan, Waste Local Plan or other Development Plan Document, or any Strategic Policy Guidance for which the County Council is responsible (either alone or jointly):-
 - (a) to give observations on behalf of the County Council in response to district councils, adjoining authorities, the Peak District National Park Authority, the National Infrastructure Commission, Government Departments / Agencies and statutory undertakers/public utilities in response to consultations on planning, planning-related or environmental applications and on other planning or planning-related matters including consultations on emerging Local Plans.
 - (b) to give observations on behalf of the County Council observations to the Environment Agency in response to consultations on an intention to issue a waste disposal licence or modification to an existing licence or certificate of exemption which accords with an existing planning permission.
- 19 To refer to the Secretary of State for the Environment any district council's proposal for its own development which would be detrimental to the County Council's interests or which would be contrary to the County Council's views.

- 20 (a) To determine applications to fell or prune trees covered by a County Council Tree Preservation Order.
- (b) To serve notice requiring a landowner to plant trees within a given timeframe where Tree Preservation Order conditions are in force in accordance with section 207 of the Town and Country Planning Act 1990.
- 21 To authorise the Peak District National Park Authority to discharge the County Council's powers and functions under the Ancient Monuments and Archaeological Areas Act 1979 in respect of that part of the Peak District National Park which is within Derbyshire, without prejudice to the exercise concurrently by the County Council within that area of their powers under the Act.
- 22 In conjunction with the Director of Legal Services to create footpaths and bridleways by agreement under the Highways Act 1980 and Town and Country Planning Act 1990 provided the proposal is supported by the local member, no objections are received and any payments to be made have been agreed by the Director of Property Services
- 23 In conjunction with the Director of Legal Services to investigate, make and confirm (or decline) public path extinguishment orders, public path diversion orders and public path creation orders under the Highways Act 1980 and Town and Country Planning Act 1990 provided the proposal is supported by the local member and there are no objections.
- 24 To make up new footpaths, bridleways and restricted byways pursuant to section 27 of the Highways Act 1980
- 25 To authorise service of a notice that the highway is out of repair on persons alleged to be responsible for maintaining a highway pursuant to s56(1) Highways Act 1980
- 26 To authorise the service of a notice pursuant to sections 56(2) and 56(4) of the Highways Act 1980 in response to a notice served by a complainant under Section 56(1).
- 27 To exercise default powers in respect of non-repair of privately maintainable highways under section 57 Highways Act 1980.

- 28 To apply to the Magistrates Court to stop up or divert a highway under sections 116 and 117 of the Highways Act 1980 provided the local member has been consulted and has not objected to the proposals.
- 29 To carry out temporary diversions under sections 122, 135 and 135A of the Highways Act 1980.
- 30 To authorise the erection of stiles etc. under s147 of the Highways Act 1980
- 31 To enter into agreements relating to improvements for the benefit of persons with mobility problems under section 147ZA of the Highways Act 1980.
- 32 To serve notices and authorise all consequential action arising therefrom under Part IX of the Highways Act 1980 and the Rights of Way Act 1990 in order to assert and protect the rights of the public to the use and enjoyment of any public right of way.
- 33 (a) To carry out the duties of the County Council to assert and protect the rights of the public to the use and enjoyment of public rights of way under Section 130 of the Highways Act 1980 including the power to bring proceedings in the Magistrates' Court.

(b) To carry out the duties of the County Council under the Rights of Way Act 1990.
- 34 To serve notice on persons pursuant to Section 130A(6) of the Highways Act 1980
- 35 To apply for a variation of an Order made under Section 130B of the Highways Act 1980.
- 36 (a) To make temporary closure orders for public paths under Section 14 of the Road Traffic Regulation Act 1984 because of works on, or near, the path or because of the likelihood of danger or damage.

(b) to impose revised orders for public paths under Section 14 of the Road Traffic Regulation Act 1984 because of works on, or near, the path or because of the likelihood of danger or damage following notification to the Local Member.

(b) To rescind temporary closure orders imposed under Section 14 of the Road Traffic Regulation Act 1984 following notification to the Local Member.

- 37 To keep the register of information with respect to maps, statements and declarations deposited with the County Council under Section 31(6) of the Highways Act 1980.
- 38 To keep the register with respect to applications under Section 188ZA, 118C, 119ZA and 119C of the Highways Act 1980.
- 39 To keep the register of prescribed information with respect to applications under Section 53(5) of the Wildlife and Countryside Act 1981.
- 40 To enter into agreements with respect to means of access to any access land under Section 35 of the Countryside and Rights of Way Act 2000.
- 41 To designate a footpath as a cycle track under the Cycle Tracks Act 1984.
- 42 (a) To authorise the Peak District National Park Authority to discharge the County Council's functions, as contained in the Countryside Act 1968 in relation to sites.
- (b) To authorise other bodies to erect signposts and waymarks on public paths pursuant to s27 (5) of the Countryside Act 1968.
- 43 In relation to highways to exercise the following powers and duties under the Highways Act 1980:-

- (a) to assert and protect the rights of the public to the use and enjoyment of highways under Section 130 of the Highways Act 1980.
- (b) To issue, revoke, amend, suspend or otherwise vary licences, notices and consents and grant permissions relating to the street scene environment
- (c) To exercise all powers of enforcement (including but not limited to the service of notices, carrying out of works, recovery of costs and court proceedings) with respect to statutory duties and powers under the Highways Act 1980;
- (d) To administer the Advance Payments Code;
- (e) to determine the amount of any deposit or security required in respect of buildings having a frontage to a new state or private street in accordance with Section 219 and 220 including supervision and legal charges in the case of Section 38 Agreements and Bonds
- (f) In conjunction with the Director of Legal Services to make and enter into agreements for the creation, maintenance, improvement and adoption of highways (including bridges).
- (g) To approve the adoption of privately maintainable highways or streets under Sections 37, 38 and 228 of the Highways Act 1980 so that the highways or streets become maintainable by the Council at public expense.
- (h) To carry out highway drainage works
- (i) to undertake works by, or on behalf of, other persons under Section 296 Highways Act 1980
- (j) To revoke prescribed improvement lines and prescribed building lines under sections 73 and 74 of the Highways Act 1980

44 To approve the rescinding of New Street Orders made under section 159 of the Highways Act 1959

- 45 To carry out the functions of the Council as a street or streetworks authority including the grant of street works licences under the New Roads and Street Works Act 1991.
- 46 After seeking the views in each case of the local member(s) of the County Council affected thereby and the relevant district council and parish council, and provided the local member(s) of the County Council so consulted do not object thereto, to exercise the powers and duties of the County Council under Sections 90A and 90I of the Highways Act 1980 (road Humps and other Traffic Calming Works); and under the Road Traffic Regulation Act 1984 (as amended) in respect of the following matters:-
- (a) Traffic Regulation Orders (Part I of Act)
 - (b) Experimental traffic schemes (Part I of Act)
 - (c) Speed limits (Part VI of Act)
 - (d) Administrative and other powers and duties for the purposes of items (a) to (h) above (Parts IX and X of Act)
- 47 To exercise the powers and duties of the County Council under the Road Traffic Regulation Act 1984 (as amended) that are not dealt with by DES25 above:-
- (a) Temporary prohibitions and restrictions on roads (Part II of Act)
 - (b) Provision of crossings and playgrounds (Part III of Act)
 - (c) Provision of off street parking (Part IV of Act)
 - (d) Provision of placing of traffic signs (Part V of Act)
 - (e) Placing of bollards and other obstructions (Part VII of Act)
 - (f) Administrative and other powers and duties for the purposes of items (a) to (e) above (Parts IX and X of Act)
- 48 In consultation with the Chief Constable, district councils, County Teachers, and other representatives of organisations concerned with road safety, to maintain, monitor, review and implement a road safety strategy within the County Council's road safety policies.
- 49 To take and implement any decision necessary to fulfil the obligations of the County Council pursuant to, and in accordance with, a Service Level Agreement relating to the Council's participation in the Safety Camera

Partnership including approving the annual operational plan for the scheme.

- 50 To approve district councils' applications for orders to amend charges for parking places in accordance with the powers contained in Section 35 of the Road Traffic Regulations Act 1984.
- 51 To take action on behalf of the County Council, after consultation where appropriate with district councils, under Sections 5 (traffic signs), 6 (damage to footways), 7 (plans of new streets), 8 (vesting of former highway land) and 10 (grass verges etc) of the Derbyshire Act 1981.
- 52 To deal with individual cases where an altered highway produces a significant and obvious hardship either by the alteration directly or by a substantial increase in traffic which has been triggered by the alteration and where the total cost of providing discretionary noise insulation does not exceed the current cost of £5,000 per scheme (index linked in subsequent years by the national GDP).
- 53 In consultation with the appropriate Cabinet Member, to award grants.
- 54 To accept grants up to £50,000 in respect of projects undertaken by the Environmental Services Department.
- 55 To respond to consultations received relating to applications to stop up or divert sections of highway under sections 247 and 251 of the Town and Country Planning Act 1990 where it is necessary for the purpose of enabling a development to be carried out in accordance with planning permission or as specified by a government department.
- 56 To discharge the responsibilities of the County Council as lead local flood authority under the Flood and Water Management Act 2010
- 57 To discharge all powers of enforcement with respect to the statutory duties and powers under the Land Drainage Act 1991
- 58 To liaise with district and borough councils in connection with any aspect of flood management which has been delegated to such councils by the County Council and to ensure the effective discharge of such delegated functions

- 59 To carry out the functions of the Council in relation to emergency preparedness, resilience and response, including the Civil Contingency Act 2004 and to invoke powers under the Public Order Act 1986 to ensure the protection of the Local Authority's land and assets.

DRAFT

Appendix 2 - Petition Scheme

Derbyshire County Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

The County Council has decided that a petition for the purposes of this Petition Scheme must be signed by 10 or more persons who live, work or study in the Council's area.

Petitions can be presented in paper or electronic format. Paper petitions should be sent to:

The Director of Legal Services
Derbyshire County Council
County Hall
Matlock
Derbyshire
DE4 3AG

Electronic petitions can be created, signed and submitted online at www.derbyshire.gov.uk/petitions

Under normal circumstances, a petition will be presented to the appropriate Cabinet Member meeting. Details of these meetings can be found at www.derbyshire.gov.uk or by contacting the Democratic and Registration Services Manager either by telephone on 01629 538327 or by email on petitions@derbyshire.gov.uk. If you would like to present your petition to the appropriate Cabinet Member meeting, or would like your County Councillor or someone else to present it on your behalf, please contact the Democratic and Registration Services Manager at least 10 working days before the meeting and they will talk you through the process.

If your petition has received more than 7,500 (just under 1% of the Derbyshire population) signatures or more it will also be scheduled for a Full Council debate and, if this is the case, we will let you know whether this will happen at the same meeting at which you presented your petition or a later meeting of the Full Council.

What are the guidelines for submitting a petition?

Petitions submitted to the Council must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take.
- the name and address and signature of any person supporting the petition (which may be an address where signatories live, work or study).

Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as petition organiser.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before any local or national election or referendum, we may need to deal with your petition differently – if this is the case, we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

What will the Council do when it receives my petition?

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps that we plan to take.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or concerns a matter where there is already an existing right of appeal, other procedures apply.

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed). When you sign an e-petition, you can elect to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed, unless you choose to receive other emails from us.

How will the Council respond to petitions?

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a Cabinet Member meeting or Full Council.
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- undertaking consultation
- holding a meeting with petitioners
- referring the petition for consideration by one of the Council's Improvement and Scrutiny Committees*
- writing to the petition organiser setting out our views about the request in the petition

*Improvement and Scrutiny Committees are committees of Councillors who are responsible for scrutinising the work of the Council. In other words, the Improvement and Scrutiny Committee has the power to hold the Council's decision makers to account.

In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

If your petition is about something over which the Council has no direct control, for example the local railway or hospital, we will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible, will work with these partners to respond to your petition. If we are not able to do this for any reason (for example, if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you. You can find more information on the services for which the Council is responsible here:

http://www.derbyshire.gov.uk/Council/Council_works/ or by contacting the Democratic and Registration Services Manager.

If your petition is about something for which a different council is responsible, we will give consideration as to the best method for responding to it. This might consist of simply forwarding the petition to the other council, but could involve other steps. In any event, we will always notify you of the action we have taken.

Full Council Debates

If a petition contains more than 7,500 signatures it will be debated by the Full Council unless it is a petition asking for a senior Council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting.

The petition organiser (or their nominee) will be given five minutes to present the petition at the meeting. The petition will then be discussed by Councillors for a maximum of 15 minutes. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. Where the issue is one on which the Council's Cabinet is required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

Officer evidence

Your petition may ask for a senior Council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior Council officer to explain progress on an issue, or to explain the advice given to Elected Members to enable them to make a particular decision. The senior officers who may be asked to give evidence will be the Council's Chief Officers or their nominees.

If your petition contains more than 3,750 signatures, the relevant Chief Officer (or their nominee) will give evidence at a public meeting of the Council's appropriate Improvement and Scrutiny Committee.

The list of Chief Officers that can be called to give evidence is set out below:

- Strategic Director of Commissioning, Communities and Policy
- Strategic Director of Adult Care and Health
- Strategic Director of Children's Services

- Strategic Director of Economy, Transport & Environment.

You should be aware that the Improvement and Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance, if the named officer has changed jobs. The Committee may also decide to call the relevant Councillor, usually the Cabinet Member or where appropriate, the local Councillor, to attend the meeting. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the Chairman of the Committee by contacting the Democratic and Registration Services Manager either by telephone on 01629 538327 or by email on scrutiny@derbyshire.gov.uk up to three working days before the meeting.

E-petitions

The Council welcomes e-petitions which are created and submitted through our website www.derbyshire.gov.uk/petitions. E-petitions must follow the same guidelines as paper petitions as detailed in this Petition Scheme. The petition organiser will need to provide us with their name, postal address and email address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for six months, but you can choose a shorter or longer timeframe, up to a maximum of 12 months.

When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.

If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

When an e-petition has closed for signature, it will automatically be submitted to the Director of Legal Services. In the same way as a paper petition, you will receive an acknowledgement within 10 working days. If you would like to present your e-petition to a Council meeting, please contact the Democratic and Registration Services Manager within 10 working days of receipt of the acknowledgement.

A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on this website.

How do I 'sign' an e-petition?

You can see all the e-petitions currently available for signature here www.derbyshire.gov.uk/petitions . When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete, your 'signature' will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request to one of the Council's Improvement and Scrutiny Committees review the steps that the Council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.

The County Council has four Improvement and Scrutiny Committees, each with their own areas of responsibility as follows:

- Resources
- People
- Places
- Health

For further details of these committees, including their areas of responsibility and details of when and where they meet, refer to www.derbyshire.gov.uk or contact the Democratic and Registration Services Manager.

The appropriate Committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council's Cabinet and arranging for the matter to be considered at a meeting of the Full Council.

Once the request has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.

The provisions contained within the Petition Scheme will be the subject of regular review.

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Appendix 3 - Rules of Procedure

Council Procedure Rules

STANDING ORDERS OF THE COUNTY COUNCIL

1. Annual Meetings
2. General Meetings
3. Quorum
4. Order of Business
5. Minutes
6. Motions Requiring Notice
7. Motions Not Requiring Notice
8. Questions by Members
9. Questions by Members on the Report from Cabinet
10. Questions by the Public
11. Rules of Debate
12. Closure Motions and Budget Motions
13. Voting
14. Interests
15. Disorderly Conduct
16. Petitions
17. Committees
18. Canvassing
19. Suspension and Variation
20. Interpretation

1. The Annual Meeting of Council will be held at 2.00 pm on the third or fourth Wednesday in May each year, as Council may decide.
2. **General meetings** of the Council will take place in accordance with the programme of meetings decided at the Council's Annual Meeting. All meetings will be held at County Hall, Matlock, commencing at 2 pm.
 - 2.1 Members of the public may record and report on meetings which members of the public are allowed to attend. However, oral reporting or oral commentary during meetings is not permitted as this would be disruptive to the good order of the meeting and such conduct would be considered to be disorderly in accordance with Clause 15.
3. **Quorum** If there are not at least 16 Members present, the Chairman will adjourn the meeting to a specified time and date.
4. The **order of business** at the Council will be as follows:
 - (a) If necessary, the appointment of the Chairman
 - (b) Apologies
 - (c) Declarations of interests
 - (d) Chairman's announcements
 - (e) Minutes of the previous meeting
 - (f) Report of the Leader of the Council and Members' Questions
 - (g) Questions submitted by the public
 - (h) Petitions
 - (i) Reports of officers
 - (j) Presentations
 - (k) Report from the Cabinet and Members' questions on the Report
 - (l) Questions submitted by Members
 - (m) Motions
 - (n) Receive the minutes of committees, joint committees and the Fire Authority
 - 4.1 Unless the majority of Members present vote for the meeting to continue, any meeting that has lasted for three hours will adjourn without delay. Any remaining business will be considered at the next ordinary meeting of the Council or an alternative date and time for a meeting will be arranged.
- 5.1 No discussion will take place upon the **minutes** of the Council except upon their accuracy.

5.2 The Chairman will sign the **Minutes** of the proceedings at the next suitable meeting.

5.3 Where in relation to any meeting of the Authority the next such meeting is a meeting called under paragraph 3 (Extra-Ordinary Meetings) of Schedule 12 of the Local Government Act 1972, the next following meeting of the Authority (being a meeting called otherwise than under that paragraph) shall be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) (Signing of Minutes) of that schedule.

- 6.1 **Notice of a motion** shall be given in writing or by email by the Member to the Director of Legal Services by 12 noon at least 10 working days before the meeting of the Council. The Director of Legal Services will record the date of receipt in a book which shall be open to inspection by any person.
- 6.2 Motions for which notice has been given will be listed in the agenda in the order in which they were received unless the Member who gave notice states in writing that they wish to withdraw it.
- 6.3 Motions must be about matters for which the Council has responsibility or which affect its area.
7. **Notice** shall not be required for Motions
- (a) Concerning the appointment of the Chairman and Vice-Chairman for the year at the meeting, the accuracy of minutes of the Council, the order of business, or
 - (b) Proposing appointments, or references to decision-making bodies, receipt of minutes and approval of any recommendations, amendments to motions, leave to withdraw motions, adjourning the meeting or exclusion of the public, or
 - (c) Under Standing Orders 11 (closure of debate), 13 (that a named member be not further heard) or 17 (suspension of Standing Orders).

8. **Questions by Members**

8.1 After giving written notice to the Director of Legal Services by 12 noon on the Friday before the Council Meeting, a Member of the Council may ask the Chairman, a member of the Executive or the Chairman of any

Committee or Sub-Committee a question on any matter in relation to which the Council has powers or duties or which affects Derbyshire.

8.2 An answer may take the form of:

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

8.3 A Member asking a question under this Standing Order may ask one supplementary question without notice of the Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

8.4 A Member may ask the nominated representative of the Derbyshire Fire Authority a question on the discharge of the functions of the Authority. Written notice of any such questions must first be given to the Director of Legal Services by 12noon on the Friday before the Council meeting.

9A. Questions by Members on the Report of the Leader of the Council

- (a) A Member of the Council may ask the Leader of the Council a question directly arising from the report.
- (b) A Member asking a question under this Standing Order may ask one supplementary question which must arise directly out of the original question or reply.

9B. Questions by Members on the Report from Cabinet

- (a) After giving written notice to the Director of Legal Services by 12 noon on the Friday before the Council meeting, a Member of the Council may ask a member of the Executive a question on items in the report.
- (b) A Member asking a question under this Standing Order may ask one supplementary question without notice of the Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

10. Questions by the Public

General

- 10.1 Members of the public who are on the Derbyshire County Council register of electors, or are Derbyshire County Council tax payers or non-domestic tax payers, may ask questions of members of the Cabinet at ordinary meetings of the Council. The maximum period of time for questions by the public at a Council Meeting shall be 30 minutes.

Order of Questions

- 10.2 Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.

Notice of Questions

- 10.3 A question may only be asked if notice has been given by delivering it in writing email to the Director of Legal Services no later than 12noon three working days before the Council Meeting (ie on a Friday when Council meets on the following Wednesday). The notice must give the name and address of the questioner and the name of the Cabinet Member of the Council to whom the question is to be put.

Number of Questions

- 10.4 At any one meeting no person may submit more than one question, and no more than one such question may be asked on behalf of one organisation.

Scope of Questions

- 10.5 The Director of Legal Services may reject a question if it:
- Exceeds 200 words in length;
 - is not about a matter for which the Council has a responsibility, or which affects Derbyshire;
 - is defamatory, frivolous or offensive;
 - is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
 - requires the disclosure of confidential or exempt information.

Asking the Question at the Meeting

- 10.6 The Chairman will invite the questioner to put the question to the member named in the notice. If the questioner who has submitted a written question is unable to be present, he/she may ask the Chairman to put the question on his/her behalf. In the absence of the questioner, the Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given, or decide that the question will not be dealt with.

Supplementary Question

- 10.7 A questioner who has put a question in person may also put one supplementary question without notice to the Cabinet Member who has replied to his/her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Standing Order 10.5 above.

Written Answers

- 10.8 The time allocated for questions by the public at each meeting will be 30 minutes. This period may be extended at the discretion of the Chairman. Any questions not answered at the end of the time allocated for questions by the public will be answered in writing. Any question that cannot be dealt with during public question time because of the non-attendance of the Cabinet Member to whom it was to be put, will be dealt with by a written answer.

Reference of Question to the Council Cabinet or a Committee

- 10.9 Unless the Chairman decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Cabinet or the appropriate Committee or Sub-Committee. Once seconded, such a motion will be voted upon without discussion.

Record of Questions

- 10.10 The Director of Legal Services will keep a record, open to public inspection, of all public questions received and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for the rejection. Copies of all questions will be circulated to all Members and will be made available to the public attending the meeting. The Director of Legal Services will be

responsible for sending to the questioner a copy of the answer provided at the Council Meeting as soon as practicable after the Council Meeting.

11. Rules of Debate

- 11.1 Members shall stand when speaking and address the Chairman.
- 11.2 Whenever the Chairman rises, any member then standing shall sit and the Council shall be silent.
- 11.3 If two or more Members wish to speak the Chairman shall call one, ordinarily giving the other(s) a later opportunity to speak.
- 11.4 A motion or amendment shall not be discussed unless it has been proposed and seconded.
- 11.5 The proposer of a motion with the consent of the Council may alter the motion.
- 11.6 When a motion is under debate no other motion shall be moved except one of the motions specified in Standing Order 7.
- 11.7 No speech may exceed 10 minutes except with the consent of the Chairman.
- 11.8 A Member may rise on a point of order, or in personal explanation, and shall be entitled to be heard. A point of order shall relate only to an alleged breach of a Standing Order or statutory provision which the Member will specify. A personal explanation shall be confined to a relevant earlier statement which has been misunderstood.
- 11.9 The mover of the motion has a right of reply at the close of the debate on the motion or on any amendment. Any other Member may only speak a second time in a debate under Standing Order 11.8 or with the permission of the Chairman.
- 11.10 An amendment shall be relevant to the motion and shall not merely negate or be negative to it:
 - i) it shall be either to refer a matter to the Cabinet or a committee; or
 - ii) to insert, add, alter or leave out words in or from the motion. A further amendment shall not be moved while an amendment is being considered.

11.11 The ruling of the Chairman under this Standing Order shall not be open to discussion.

12. Closure Motions and Budget Motions

12.1 At the conclusion of a speech of a Member, another Member may move that the question be now put or the meeting or debate be adjourned. If such closure motion is seconded, and the Chairman does not rule that the matter should be discussed further on that occasion, the Chairman shall put to the vote the closure motion. In the case of a debate closed by a motion that the question be now put the right of reply of the mover of the original motion will then be exercisable.

12.2 No motion or amendment to propose a precept shall be considered unless it contains sufficient detail within it to justify the precept moved. In determining whether or not a particular motion or amendment is in order the Chairman shall have regard to:

- i) advice of relevant officers;
- ii) information available within the motion or amendment concerning proposed reductions or increases in service estimates, or proposed measures which would reduce expenditure or increase income, or the government grant implications of the level of expenditure proposed; and
- iii) any other relevant matter.

13. Voting

13.1 When a vote is to be taken the Chairman shall call for a show of hands or if five Members stand a recorded vote. If there is a recorded vote a record of those voting for and against will be kept and any Member present but not declaring their vote shall be recorded as abstaining.

13.2 Where immediately after a vote is taken at a meeting of a relevant body, if any Member of that body so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that person cast his or her vote for the question or against the question or whether he or she abstained from voting.

In this paragraph "relevant body" means the authority, the Cabinet, a committee or sub-committee of the Authority or a relevant joint committee or sub-committee of such a body.

13.3 Immediately after any vote on any decision relating to the making of the calculation or the issuing of the precept is taken at a budget decision

meeting there must be recorded in the minutes the names of the persons who cast votes for the decision or against the decision or who abstained from voting.

13.4 Where three or more persons are nominated for any position and there is not a majority in favour of any one person, the person having the least number of votes shall be disregarded and a fresh vote taken and so on until there is a majority in favour of one person.

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

14. Interests

14.1 Where any business of the meeting relates to or is likely to relate to:

- (a) a Disclosable Pecuniary Interest as described at paragraph 4(1) of the Code of Conduct for Members;
- (b) a Personal Interest as described at paragraph 4(2) of the Code of Conduct for Members; or
- (c) any Other Interest as described at paragraph 4(3) of the Code of Conduct for Members.

held by a Member, the Member must, at the commencement of the consideration of that item of business, or as soon as the interest becomes apparent, disclose to the meeting the existence and nature of that interest.

14.2 Where a Member discloses an interest, and that interest is a Disclosable Pecuniary Interest, the Member must withdraw from the meeting room where the item of business is being discussed and, unless the Member has been granted a dispensation by the Governance and Ethics Committee, he or she may not:

- (a) participate in any discussion of the matter at the meeting
- (b) vote on the matter at the meeting
- (c) continue to deal with that matter

14.3 Disclosures of interests will be recorded in the minutes of the meeting.

15. Disorderly Conduct

- 15.1 If at a meeting any Member of the Council commits misconduct by persistently disregarding the ruling of the Chairman, by behaving irregularly, improperly or offensively or by wilfully obstructing the business of the Council, the Chairman or any other Member may move "that the Member named be not further heard" and the motion, if seconded, shall be put and determined without discussion.
- 15.2 If misconduct by the Member continues the Chairman shall move that the Member named shall be excluded from the meeting and the motion, if seconded, shall be put and determined without discussion.
- 15.3 If a member of the public interrupts the proceedings at any meeting the Chairman shall warn the person. If the interruption continues the Chairman shall order the person's removal from the meeting. In the case of a general disturbance in any part of a meeting open to the public, the Chairman shall order that part to be cleared.
- 15.4 The Chairman may, in the event of a disturbance interfering with the orderly dispatch of business, adjourn or suspend a meeting for such period as the Chairman considers appropriate.

16. **Petitions**

- 16.1 Any **petition** signed by 10 or more members of the public and not received to be dealt with under a procedure regulated by law, shall be dealt with in accordance with the Council's Petition Scheme (Appendix 2).

17. **Committees**

- 17.1 When **appointing** a committee the Council may also appoint the Chairman and Vice- Chairman, who in each case must be a Member of the Council.
- 17.2 A **substitute** Member may take the place of a Member who is unable to attend a meeting of one of the Committees or Sub-Committees. Such substitute Member, once named by a member of the absent Member's political group, will be accepted onto the Committee with power to speak and vote
- 17.3 The **quorum** of a committee or sub-committee shall be one quarter of the whole number of Members, or two, whichever is the greater number;
- 17.4 **Meetings** - The Chairman of a committee may call a special meeting at any time. A quarter of the Members of a committee may require the Director of Legal Services to call a special meeting. The requisition

must be in writing setting out the business to be considered. The special meeting will only consider the business so set out. All meetings of committees shall be summoned by the Director of Legal Services.

- 17.5 **Information** - A copy of the agenda of every meeting of a Council, committee together with the index of reports of Strategic Directors and Directors shall be sent to every Member of the Council.
- 17.6 **Local Members** - With the consent of the Chairman, a Member whose electoral division is directly affected by a matter or who has special knowledge which is relevant, may attend any committee and may speak (but not vote) on any particular matter.
- 17.7 **Requests from Members** - The agenda for any committee shall include consideration of any item requested by a member of the committee, subject to the Director of Legal Services receiving written notice at least 10 working days before the date of the meeting.
- 17.8 **Application of Standing Orders** - Standing Orders 2.1 (general meetings) 13 (voting), 15 (disorderly conduct) and 20 (interpretation) shall apply to meetings of Committees with any necessary adaptation.
- 18. **Canvassing** - A Member of the Council shall not solicit for any person any appointment within the Council but this shall not preclude a Member from giving a written reference for a candidate for a post.
- 19. **Suspension and Variation**
 - 19.1 Subject to paragraph 2 of this Standing Order any of the preceding Standing Orders may be suspended so far as regards any business of the meeting where suspension is moved.
 - 19.2 A motion to suspend Standing Orders shall not be moved without notice unless at least one half of the whole number of the Members of the Council are present.
 - 19.3 Any motion to add to, vary or revoke any Standing Order, shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.
- 20. **Interpretation** The ruling of the Chairman as to the application and meaning of any Standing Order shall not be challenged at any meeting of the Council.

Appendix 4 - Executive Procedure Rules

1. How does the Executive operate?

1.1 Who may make executive decisions?

The arrangements for the discharge of executive functions may be set out in the executive arrangements adopted by the Council. If they are not set out there, then the Leader or Cabinet may decide how they are to be exercised. In either case, the arrangements or the Leader may provide for executive functions to be discharged by:

- i) the Executive as a whole;
- ii) a committee of the Executive;
- iii) an individual member of the Executive;
- iv) an officer;
- v) joint arrangements; or
- vi) another local authority

In the absence of a Cabinet Member the Leader or Deputy Leader may discharge executive functions falling within that Cabinet Member's area of responsibility

1.2 Delegation by the Leader

At the annual meeting of the Council, the Council will approve a written record of delegations to be included in the Council's scheme of delegation at Appendix 1 to this Constitution. The Council will make available the following information about executive functions in relation to the coming year:

- i) the names, addresses and electoral divisions of the people appointed to the Executive by the Council;
- ii) the extent of any authority delegated to Executive members individually, including details of the limitation on their authority;
- iii) the terms of reference and constitution of such Executive committees as are appointed and the names of Executive members appointed to them;
- iv) the nature and extent of any delegation of executive functions to area committees, any other authority or any joint arrangements

and the names of those Executive members appointed to any joint committee for the coming year; and

1.3 Sub-delegation of executive functions

- (a) Where the Executive, a committee of the Executive or an individual member of the Executive is responsible for an executive function, they may delegate further to an area committee, joint arrangements or an officer.
- (b) Unless the Council directs otherwise, then the Executive may delegate further to a committee of the Executive or to an officer.
- (c) Unless the Executive directs otherwise, a committee of the Executive to whom functions have been delegated may delegate further to an officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.4 The Council's scheme of delegation and executive functions

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article xx and be set out in Appendix 1 of this Constitution.
- (b) If the Executive is able to decide whether to delegate executive functions, it may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Executive must give written notice to the Director of Legal Services and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Executive as a whole. The Director of Legal Services will present a report to the next ordinary meeting of the Council setting out the changes made by the Executive.
- (c) Where the Leader seeks to withdraw delegation from a Cabinet committee of the Executive, notice will be deemed to be served on that committee when he/she has served it on its Chairman.

1.5 Conflicts of Interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Appendix 11 of this Constitution.
- (b) If every member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Appendix 11 of this Constitution.
- (c) If the exercise of an executive function has been delegated to a committee of the Executive, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Code of Conduct for Members referred to in Appendix 11 of this Constitution.

1.6 Executive meetings – when and where?

The Executive will normally meet on a four weekly basis, or at such times deemed appropriate by the Leader, at times to be agreed by the Leader. The Executive shall normally meet at the Council's main offices or another location to be agreed by the Leader.

1.7 Public or private meetings of the Executive?

The Executive will be open to the public, subject to confidentiality rules. Members of the public may record and report on meetings which members of the public are allowed to attend. However, oral reporting or oral commentary during meetings is not permitted as this would be disruptive to the good order of the meeting and such conduct would be considered to be disorderly in accordance with Clause 15.

1.8 Quorum

The quorum for a meeting of the Executive shall be 3 including the Leader or Deputy Leader.

1.9 How are decisions to be taken by the Executive?

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information rules in Appendix xx of the Constitution.
- (b) Where Executive decisions are delegated to a committee of the Executive, the rules applying to Executive decisions taken by

them shall be the same as those applying to those taken by the Executive as a whole.

2. HOW ARE EXECUTIVE MEETINGS CONDUCTED?

2.1 Who presides?

The Leader, or in his/her absence, the Deputy Leader.

2.2 What business?

At each meeting of the Executive the following business will be conducted:

- i) consideration of the minutes of the last meeting;
- ii) declarations of interest, if any;
- iii) matters referred to the Executive (whether by an Improvement and Scrutiny Committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Improvement and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Appendix 7 of this Constitution;
- v) matters set out in the agenda for the meeting, (and which shall indicate which are not in accordance with the Access to Information Procedure rules set out in Appendix 6 of this Constitution)
- iv) consideration of reports from an Improvement and Scrutiny Committee;

2.3 Consultation

All reports to the Executive from any member of the Executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Improvement and Scrutiny Committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.4 Who can propose items for the Executive agenda?

- Any member of the Executive
- Head of Paid Service; Director of Finance and ICT (Chief Financial Officer); Director of Legal Services (Monitoring Officer)
- Service Chief Officers
- Requests from any Member of the Council

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Appendix 5 - Improvement and Scrutiny Procedure Rules

1. What will be the number and arrangements for Improvement and Scrutiny Committees?

The Council will have four Improvement and Scrutiny Committees, their size to be determined at the Annual Meeting of the Council, and terms of reference as set out in Article 6. Such Committees may appoint Sub-Committees or Panels as they consider appropriate.

2. Who may sit on Improvement and Scrutiny Committees?

All Councillors except members of the Cabinet may be members of an Improvement and Scrutiny Committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

3. Education Representatives and Co-optees

The Improvement and Scrutiny Committee (People) will include in its membership the following representatives with voting rights:

- (a) One Church of England diocese representative;
- (b) One Roman Catholic diocese representative;
- (c) Two parent governor representatives; and

Where the Committee is dealing with matters other than education, these representatives shall not vote but may stay in the meeting and speak.

Each Improvement and Scrutiny Committee, or sub-committee shall be entitled to appoint other non-voting co-opted members to assist in carrying out their work as they consider appropriate.

4. Meetings of the Improvement and Scrutiny Committees

Each Improvement and Scrutiny Committee will meet in accordance with a timetable of meetings approved by the Council. Normally each

Committee will meet bi-monthly but may be called from time to time as and when appropriate. A meeting may also be called by the Chairman of the relevant Improvement and Scrutiny Committee, or if requisitioned by one third of the number of members of the Committee (rounded up).

5. Quorum

The quorum for an Improvement and Scrutiny Committee shall be one quarter of the number of members of the committee (rounded up).

6. Who Chairs Improvement and Scrutiny Committee Meetings?

Chairmen of Improvement and Scrutiny Committees/Sub-Committees will be drawn from among the Councillors sitting on the Committee/Sub-Committee, and subject to this requirement the Committee/Sub-Committee may appoint such person as it considers appropriate as Chairman.

7. Work Programme

Each Improvement and Scrutiny Committee will be responsible for setting their own work programme and in doing so shall take account of the wishes of the members of the Committee. The work programme should include matters on which there are requests from the Council or the Cabinet for advice.

8. Agenda Items

Any member of an Improvement and Scrutiny Committee shall be entitled to give notice to the Director of Legal Services that he/she wishes an item, relevant to the functions of the Committee, to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Director of Legal Services will ensure that it is included on the next available agenda. Members who are not appointed to the Improvement and Scrutiny Committee in question may ask their party group spokesman to give notice of an item.

Improvement and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council, and if it considers it appropriate the Cabinet, to review particular areas of Council activity. Where they do so, the Committees shall report their findings and any recommendations back to the Cabinet and/or Council. The Council

and/or the Cabinet shall consider the report of the Improvement and Scrutiny Committee at their next available meeting.

9. Policy and Project Reviews

(1) The role of the Improvement and Scrutiny Committees in relation to the development of the Council's budget and policy and framework is set out in detail in the Budget and Policy Framework Procedure Rules.

(2) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Improvement and Scrutiny Committees may make proposals to the Cabinet and/or Council relating to matters within their terms of reference.

(3) Improvement and Scrutiny Committees may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers to assist them in this process. They may go on site visits, conduct surveys, hold public meetings, commission research and do other things that are reasonably considered necessary to inform their deliberations. They may ask witnesses to attend a meeting on matters under consideration and, if appropriate, pay advisers and witnesses a reasonable fee and expenses for doing so.

10. Reports from Improvement and Scrutiny Committee

(1) Once it has formed recommendations on proposals, the Improvement and Scrutiny Committee will prepare a formal report and submit it either to the Cabinet or to the Council as the Committee thinks appropriate.

(2) If one single final report cannot be agreed, then a minority report may be prepared and submitted alongside the majority report.

(3) The Cabinet or Council will receive the final scrutiny report and respond usually within two months confirming acceptance or otherwise of the report's recommendation and an action plan for implementation.

11. Rights to documents

- (1) Members of Improvement and Scrutiny Committees have the rights to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution. Members will also be informed of the Council's forward plan of key decisions; and of executive decisions of the Council, Cabinet and Committees.
- (2) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Improvement and Scrutiny Committees as appropriate depending on the particular matter under consideration.

12. Attendance at Improvement and Scrutiny Committees

- (1) An Improvement and Scrutiny Committee may scrutinise and review decisions made or actions taken or proposed to be taken in connection with the discharge of the Council's functions. As well as reviewing documentation, in fulfilling its Improvement and Scrutiny role, it may request any member with Executive responsibilities, senior officer of the Council, or other person to attend and provide information within their remit on:

- Measures to improve the implementation of Council policies
- Any particular decision or series of decisions;
- The extent to which actions taken implement Council policy
- Service performance

The overriding intention is to seek improvements in the delivery of Council's services.

- (2) Where the response to any question or request for information would disclose confidential or exempt information within the meaning of Schedule 12A of the Local Government Act 1972, the Committee shall be so advised by the member or officer and the Chairman shall move that the answer is taken in confidential session and the question shall be put without being seconded or debate. No member or officer giving evidence to an Improvement and Scrutiny Committee shall be under any obligation to disclose publicly personal information about an individual employee, child in care or at school, or any recipient of Council services.

- (3) An Improvement and Scrutiny Committee may invite people other than members or officers to discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, service users and representatives from other public sector organisations.

13. Call-in

Call-in should only be used in exceptional circumstances. These are where members have evidence which suggests that issues have not been handled in accordance with the decision-making principles set out in Article 13 (decision-making).

(1) When a decision is made by the Executive, an individual member of the Executive, a Committee of the Executive, or a key decision is made by an officer with delegated authority from the Executive, or under joint arrangements the decision shall be published, including where possible by electronic means and shall be available at the main offices of the Council, normally within one week of the decision being made.

All members will be informed of the decision made.

(2) Notice of the decision will bear the date upon which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless four Councillors, including two Councillors from at least two political groups give notice to the Director of Legal Services requesting a call-in of that decision.

(3) The Director of Legal Services upon receiving a request for the call-in of a decision shall notify the decision taker of the call-in and inform the appropriate Chairman of the Improvement and Scrutiny Committee. A meeting of the appropriate Improvement and Scrutiny Committee will then consider the requisitioned call-in decision at its next available meeting.

(4) If, having considered the decision, the Improvement and Scrutiny Committee is still concerned about it, it may then refer it back to the decision-making person or body for reconsideration setting out in writing the nature of the concerns or refer the matter to full Council. If the Improvement and Scrutiny Committee has no objection to the decision, those requesting the call-in shall be so informed and the decision implemented.

(5) If the matter was referred to full Council and the Council does not object to a decision which has been made then the decision will be effective. However, if the Council does object and the decision is within its terms of reference the decision will be amended according to the Council's

wishes. In those cases where the Council does object and has no locus to make decisions in respect of Executive decisions, the Council will refer any decision to which it objects back to the decision-making person or body together with the Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not, before reaching a final decision and implementing it.

Call-in and Urgency

(6) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interest. All reports recommending that decisions be taken should say whether or not it is proposed that call-in be waived. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chairman of the appropriate Improvement and Scrutiny Committee should agree both the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. Decisions taken as a matter of urgency should be reported to the next available meeting of the Council, together with the reasons for urgency.

(7) The operation of the provisions in relation to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

14. Procedure at Improvement and Scrutiny Committee Meetings

(1) Improvement and Scrutiny Committees shall consider the following business:

(a) Minutes of the last meeting.

(b) Consideration of any matter referred to the Committee for a decision in relation to call-in for a decision.

(c) Responses of the Executive or Council to reports of the Improvement and Scrutiny Committee.

(d) Business as otherwise set out in the agenda.

(2) Where Improvement and Scrutiny Committees conduct investigations and reviews, the Committees may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:

(a) That the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak.

(b) That those assisting the Committee by giving evidence be treated with respect and courtesy and see that the investigation be conducted so as to maximize the efficiency of the investigation or analysis.

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

15. Matters within the remit of more than one Improvement and Scrutiny Committee

- (1) Where an Improvement and Scrutiny Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Improvement and Scrutiny Committee, then the Committee conducting the review shall invite the Chairman of the other Committee (or his/her nominee) to attend its meetings when the matter is being reviewed.
- (2) To enable the work of the three Improvement and Scrutiny committees to be co-ordinated, monthly meetings of the chairmen will be held to discuss future work programmes and agree the allocation of project reviews to appropriate Committees.

16. Councillor Call For Action

Issues may be reported to an Improvement and Scrutiny Committee as a last resort under the Guide for Derbyshire County Councillors or Councillor Call for Action (February 2009).

Appendix 6 - Access to Information Procedure Rules

1. SCOPE

- 1.1 These rules apply to all public meetings of the Council, the Executive, Improvement and Scrutiny Committees, the Regulatory Committees and other committees of the Council (together called meetings).
- 1.2 Where the Standards Committee is convened to consider or review, as the case may be, an allegation that a Member has contravened the Council's Code of Conduct for Members, the provisions set out in the Council's procedure for considering complaints that Members have breached the Code of Conduct shall apply and the meeting and papers will not be open to the public.

2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law nor do these rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties arising from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 1998.

3. RIGHTS TO ATTEND MEETINGS

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

4. NOTICES OF MEETING

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at County Hall, Matlock and on its website at www.derbyshire.gov.uk.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and on the website at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda (where reports are prepared after the summons have been sent out, the designated officer shall make each such report

available to the public as soon as the report is completed and sent to Councillors).

6. SUPPLY OF COPIES

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Director of Legal Services thinks fit, copies of any other documents supplied to councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

7. ACCESS TO MINUTES ETC AFTER THE MEETING

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Executive excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information.
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

8. BACKGROUND PAPERS

8.1 List of background papers

The proper officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or any important part of the report is based; and

- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Executive reports, the advice of a political advisor.

8.2 Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

9. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at County Hall.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

- 10.1 The public may only be excluded under 10.2 or 10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information will be disclosed.

10.2 Confidential information – requirement to exclude public

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

10.3 Exempt Information – discretion to exclude public

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

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.4 Meaning of confidential information

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

10.5 Meaning of exempt information

Exempt information means information falling within the following 7 categories (subject to any condition) 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:

<i>Category</i>		<i>Condition</i>
1	Information relating to any individual.	
2	Information which is likely to reveal the identity of an individual.	
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)	<p>Information is not exempt information if it is required to be registered under:</p> <ul style="list-style-type: none"> (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; or (f) the Charities Act 1993 <p>“Financial or business affairs” includes contemplated, as well as past or current, activities.</p>
4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office-holders under, the authority.	<p>“Labour relations matters” are any matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 ie matters which may be the subject of a trade dispute or any dispute about any of those matters.</p> <p>For the purposes of this paragraph this shall apply to office-holders under the authority as it applies in relation to employees of the authority.</p>

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 any 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.	

Information falling within any of paragraphs 1 to 7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and County Planning General Regulations 1992.

In all cases the Monitoring Officer shall determine whether the public interest as set out above is satisfied.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Director of Legal Services thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

12. APPLICATION OF RULES TO THE EXECUTIVE

Rules 13-28 apply to the Executive and its committees. If the Executive or its committees meet to take a key decision then it must also comply with Rules 1-11 unless Rule 14 (general exception) or Rule 15 (special urgency) apply. A key decision is as defined in Article 15 of this Constitution.

If the Executive or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the Notice of key decision by which it is to be decided, then it must also comply with Rules 1-11 unless Rule 14 (general exception) or Rule 15 (special urgency) apply. A key decision is as defined in Article 15 of this Constitution. This

requirement does not include meetings whose sole purpose is for officers to brief members.

13. PROCEDURE BEFORE TAKING KEY DECISIONS

13.1 Notice of Key Decision

Subject to Rule 14 (general exception) and Rule 15 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here a Notice of Key Decisions) has been published in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the Notice of Key Decision; and
- (c) where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

13.2 Contents of Notice of Key Decision

The Notice of Key Decision will state that a key decision is to be made by the Executive, a Committee, an individual member of the Executive or under joint arrangements in the course of a discharge of a function. It will describe the following particulars:-

- (a) the matter in respect of which the decision is to be made;
- (b) where the decision maker is an individual, that individual's name and title, if any, and, where the decision-maker is a decision-making body, the name of the body and a list of the membership of the body making the decision;
- (c) the date on which, or the period within which, the decision is to be made;
- (d) a list of the documents submitted to the decision maker for consideration in relation to the matter;
- (e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (f) that other documents relevant to those matters may be submitted to the decision maker;

- (g) the procedure for requesting details of those documents (if any) as they become available.

Where in relation to any matter the public may be excluded from the meeting at which the matter is to be discussed or documents relating to the decision need not be disclosed to the public, the document referred to must contain particulars of the matters but may not contain any confidential, exempt information or particulars of the advice of a political adviser or assistant.

13.3 Publication of the Notice of Key Decision

The Notice of Key Decision must be made available for inspection by the public at County Hall, Matlock and on the Council's website.

14. GENERAL EXCEPTION

Where the publication of the intention to make a key decision (the Notice of Key Decision) is impracticable, then subject to Rule 15 (special urgency), the decision may only be made if:

- (a) the Director of Legal Services has informed the Chairman of a relevant Improvement and Scrutiny Committee, or in his absence the Vice-Chairman, in writing, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- (b) the Director of Legal Services has made copies of that notice available to the public at the offices of the Council and on the Council's website; and
- (c) at least 5 clear days have elapsed since the Director of Legal Services complied with (a) and (b).

As soon as is reasonably practicable after the Director of Legal Services has complied with Rule 14(a - c) he must make available at County Hall, Matlock and publish on the Council's website a notice setting out the reasons why compliance with Rule 13 is impractical.

15. SPECIAL URGENCY

- (a) If by virtue of the date by which a decision must be taken Rule 14 (general exception) cannot be followed, then the key decision can only be taken if the decision maker (if an individual) or the

chairman of the body making the decision, obtains the agreement of the chairman of a relevant Improvement and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no chairman of a relevant Improvement and Scrutiny Committee, or if the chairman of each relevant Improvement and Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice Chairman will suffice.

- (b) As soon as is reasonably practicable after the decision maker has obtained agreement under Rule 15(a) he must make available at the Council's offices and publish on the website a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred.

16. REPORT TO COUNCIL

16.1 The Improvement and Scrutiny Committee can require a report if it thinks that a key decision has been taken which was not:

- (a) the subject of a Notice of Key Decision; or
- (b) the subject of the general exception procedure under Rule 14; or
- (c) the subject of an agreement with a relevant Improvement and Scrutiny Committee chairman, or the Chairman or Vice Chairman of the Council under Rule 15.

The committee may require the Executive to submit a report to the Council within such reasonable time as the committee specifies. The report must include details of the decision and the reasons for the decision, the decision-maker, and the reasons for the Executive believing that the decision was a key decision. The power to require a report rests with the committee, but is also delegated to the proper officer, who shall require such a report on behalf of the committee when so requested by the chairman or any 5 members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Improvement and Scrutiny Committee.

16.2 Executive's report to Council

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that.

The report to Council will set out the particulars of the decision, the individual or body making the decision, and if the Executive is of the opinion that it was not a key decision the reasons for that opinion.

16.3 Quarterly reports on special urgency decisions

In any event, the Executive will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 15 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

17. NOTICE OF MEETING OF THE EXECUTIVE

Members of the Executive or its committees will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

18. ATTENDANCE AT MEETINGS OF THE EXECUTIVE

18.1 Executive Members

All members of the Executive will be served notice of all (both those to be held in public and those to be held in private) meetings of committees of the Executive, whether or not they are members of that committee. All Members of the Executive are entitled to attend private meetings of the Executive and its committees. Members who are not a Member of the Executive or a member of the Committee making the decision are not entitled to attend private meetings.

18.2 Officers

- (a) The Head of Paid Service, the Chief Financial Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Executive and its committees. The Executive may not meet unless the Director of Legal Services has been given reasonable notice that a meeting is to take place.
- (b) Service Chief Officers, or their nominees, may attend meetings of the Executive or its sub-committees to provide advice on relevant issues.

19. MEETINGS OF THE EXECUTIVE TO BE HELD IN PUBLIC

Meetings of the Executive and its Committees will be held in public, unless it is likely that exempt or confidential information would be disclosed or whenever a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehavior at a meeting. The public may only be excluded for the part or parts of the meeting during which it is likely that exempt or confidential information will be disclosed.

20. NOTICE OF PRIVATE MEETINGS OF THE EXECUTIVE

- 20.1 At least 28 clear days before a private meeting of the Executive or any of its committees, the decision making body must make available at the designated offices a notice of its intention to hold the meeting in private (a Notice of Private Meeting) and publish that notice on the Council's website.
- 20.2 At least 5 clear days before a private meeting, the decision making body must make available at the offices of the Council a further notice of its intention to hold the meeting in private and publish that notice on the Council's website.
- 20.3 A notice under paragraph 20.2 must include:-
- (a) a statement of the reasons for the meeting to be held in private;
 - (b) details of any representations received by the decision making body about why the meeting should be open to the public; and
 - (c) a statement of its response to any such representations.

21. GENERAL EXCEPTION

- (a) Where the date by which a meeting must be held makes compliance with this rule impracticable, the meeting may only be held in private where the decision making body has obtained the agreement of the Chairman of a relevant Improvement and Scrutiny Committee that the taking of the decision cannot reasonably be deferred. If there is no chairman of a relevant Improvement and Scrutiny Committee, or if the chairman of each relevant Improvement and Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence, the Vice-Chairman will suffice.

- (b) As soon as is reasonably practicable after the decision making body has obtained agreement to hold a private meeting under paragraph 21(a) above, it must make available at the office of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred and publish that notice on the Council's website.

22 RECORD OF DECISIONS

- 22.1 After any meeting of the Executive or any of its committees, whether held in public or private, the Director of Legal Services or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a record of the decision including the date that it was made, a statement of the reasons for each decision and any alternative options considered and rejected at that meeting, together with details of any conflict of interest relating to the matter decided which was declared by any member of the decision making body which made the decision and in respect of any declared conflict of interest, a note of dispensation granted by the Council's Head of Paid Service.

22.2 Record of Individual Decision

As soon as is reasonably practicable after an executive decision has been taken by an individual member of the Executive, he will prepare a report containing a record of the decision including the date it was made. The record will include a statement of the reasons for each decision and any alternative options considered and rejected by the member when making the decision. The record will also include details of any conflict of interest declared by any executive member who is consulted by the member which relates to the decision and in respect of any declared conflict of interest, the record will also contain a note of dispensation granted by the Council's Head of Paid Service.

23 INSPECTION OF DOCUMENTS FOLLOWING EXECUTIVE DECISIONS

- (a) Subject to rule 29, after a meeting of a decision making body at which an executive decision has been made, or after an individual member of an officer has made an executive decision the Director of Legal Services must ensure that a copy of any records prepared in accordance with Rule 22 (record of decisions) and any report considered at the meeting or, as the case may be, considered by the individual member relevant to a decision recorded in accordance with Rule 22 must be available for inspection by members of the public as soon as is reasonably

practicable at the offices of the Council and on the Council's website. Where only part of the report is relevant to such a decision, that part must be available for inspection by members of the public as soon as is reasonably practicable at the offices of the Council and on the Council's website.

- (b) Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection under Rule, those documents must be supplied for the benefit of the newspaper by the Council on payment by the newspaper to the Council of postage, copying or other necessary charge for transmission.

24 INSPECTION OF BACKGROUND PAPERS

Subject to rule 29 where a copy of the whole or part of a report for a meeting is made available for inspection by members of the public in accordance with Rule 5 or 22 at the same time, a copy of the list compiled by the author of the background papers to the report or part of the report, must be included in the report or, as the case may be, part of the report and at least one copy of each of the documents included in that list must be available for inspection by the public at the offices of the Council and on the Council's website.

25. EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

The Executive will decide whether meetings relating to matters which are not key decisions will be held in public or private. Meetings of the Executive and its committees will be held in public, unless it is likely that exempt or confidential information would be disclosed or whenever a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting. The public may only be excluded for the part or parts of the meeting during which it is likely that exempt or confidential information would be disclosed.

26 IMPROVEMENT AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS

26.1 Rights to Copies

Subject to Rule 26.2 below, an Improvement and Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Executive or its committees – and which contains material relating to

- (a) any business transacted at a meeting of the Executive or its committees; or
- (b) any decision taken by an individual member of the Executive.

26.2 Limit on Rights

An Improvement and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political assistant.

27 ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

27.1 Material relating to business to be transacted at a Public Meeting

All members will be entitled to inspect any document which is in the possession or under the control of the Executive or its committees (except those in draft form) and which contains material relating to any business previously transacted at a public meeting unless (a), (b) or (c) below applies

- (a) it contains exempt information falling within paragraphs 1, 2,4,5 or 7 of the categories of exempt information; or
- (b) it contains exempt information falling within paragraph 3 of the categories of exempt information and that information relates to any terms proposed or to be proposed to the Council in the course of negotiations for a contract.
- (c) it contains the advice of a political adviser.

27.2 Any document which is required by Rule 27.1 to be available for inspection by any Member of the Council must be available for such inspection for at least five clear days before the meeting except for:-

- (a) where a meeting is covered at shorter notice, such a document must be available for inspection when the meeting is convened; and

- (b) where an item is added to the agenda at short notice, a document that would be required to be available under Rule 27.1 in relation to that time, must be available for inspection when the item is added to the agenda.

27.3 Material relating to previous business

- (a) All members will be entitled to inspect any document (except those only available in draft form) which is in the possession or control of the Executive or its committees and contains material relating to any business previously transacted at a private meeting or to any decision made by a Member in accordance with executive arrangements 27.1 (a), (b) or (c) applies.
- (b) Any documents required to be made available for inspection under 27.3 must be made available when the relevant meeting concludes or, where an executive decision is made by an individual member, immediately after the decision has been made, and in any event, within 24 hours of the conclusion of the meeting or the decision having been made as the case may be.

27.4 Material relating to key decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession of, or under the control of, the Executive or its committees which relates to any key decisions unless it contains exempt information falling within paragraphs 1 – 6, 9, 11, 12 and 14 of the categories of exempt information above applies.

27.5 Nature of rights

These rights of a member are additional to another right he/she may have.

28 MEMBERS OTHER RIGHTS TO INFORMATION

- 28.1 A Member of the Council may, for the purposes of his or her duty as a Member and no other, inspect any document that has been considered by a committee or the Council including background papers. Applications should be made to the Director of Legal Services and, if available, copies will be supplied upon request.
- 28.2 A Member shall not knowingly inspect or request a copy of any document relating to a matter in which he:-

- (a) is professionally interested; or
- (b) has a registerable or non-registerable personal interest within the meaning of the Code of Conduct for Members as set out in this Constitution.

28.3 This shall not preclude the Director of Legal Services from declining to allow inspection of any document which is or would be protected by privilege in the event of legal proceedings arising from the relationship of solicitor and client and should be exempt under either the Freedom of Information Act or the Data Protection Act.

28.4 All reports, background papers to reports and minutes kept by any committee shall be open for the inspection of any member of the Council, as soon as the committee has concluded action on the matter to which such reports or minutes relate.

29 CONFIDENTIAL INFORMATION, EXEMPT INFORMATION AND ADVICE OF A POLITICAL ADVISER OR ASSISTANT

29.1 Nothing in these Rules is to be taken to authorize or require the disclosure of confidential information in breach of the obligation of confidence.

29.2 Nothing in these Rules:-

- (a) authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Director of Legal Services, that document or part of a document contains or may contain confidential information; or
- (b) requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or is likely to contain exempt information or the advice of a political advisers or assistant.

29.3 Where a Member of the Executive makes an executive decision in accordance with executive arrangements, nothing in these Rules:-

- (a) authorises or requires documents relating to that decision to be disclosed to the public, or made available for public inspection where, the documents contain confidential information; or

- (b) requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the disclosure of the documents would, in the opinion of the Member or officer making the decision, give rise to the disclosure of exempt information or the advice of a political adviser or assistant.

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Appendix 7 - Budget and Policy Framework Procedure Rules

1. The framework for Executive decisions

The Council will be responsible for the adoption of its budget and policy framework. Once a budget or a policy framework is in place, it will be the responsibility of the Executive to implement it.

2. Process for developing the framework

The process by which the budget and policy framework shall be developed is:

- (a) The Executive will publicise a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The Chairman of the appropriate Improvement and Scrutiny Committee will also be notified. The consultation period shall in each instance be not less than 6 weeks.
- (b) At the end of that period, the Executive will then draw up firm proposals having regard to the responses to that consultation. If a relevant Improvement and Scrutiny Committee wishes to respond to the Executive in that consultation process then it may do so. As the Improvement and Scrutiny Committee have responsibility for fixing their own work programme, it is open to the Improvement and Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Executive will take any response from an Improvement and Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Executive's response.
- (c) Once the Executive has approved the firm proposals, they will be referred at the earliest opportunity to the Council for decision.
- (d) In reaching a decision, the Council may adopt the Executive's proposals, amend them, or if it has objections refer them back to the Executive for further consideration as provided for in paragraph (k) or (l) below.

- (e) If it accepts the recommendation of the Executive without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make a decision in principle. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (f) The decision will be publicised in accordance with Appendix 3 and a copy shall be given to the Members.
- (g) The decision will automatically become effective 5 days from the date of the Council's decision, unless the Leader informs the proper officer in writing within 5 days that he/she objects to the decision becoming effective and provides reasons why.
- (h) In that case, the Director of Legal Services will call a Council meeting within a further 10 days. The Council will be required to re-consider its decision and the written submission.

The Council may

- (i) approve the Executive's recommendation by a simple majority of votes cast at the meeting; or
- (ii) approve a different decision which does not accord with the recommendation of the Executive by a simple majority.
- (i) The decision shall then be made public in accordance with Appendix 6, and shall be implemented immediately;
- (j) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Executive, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments) where this differs from that already expressed in Financial Regulations. Any other changes to the policy and budgetary framework are reserved to the Council.
- (k) Where the Executive has submitted a draft plan or strategy to the Council for its consideration, and following consideration of that draft plan or strategy, the Council has any objection to it, the Authority must take the action set out in paragraph 3 of the Standing Order Regulations.

- (l) Where, before 8th February in any financial year, the Executive submits to the Council for its consideration in relation to the following financial year –
- (i) estimates of the amounts to be aggregated in making a calculation (where originally or by way of substitute) in accordance with any of sections 32-37 or 43-49, of the Local Government Finance Act 1992;
 - (ii) estimates of other amounts to be used for the purposes of such a calculation;
 - (iii) estimates of such a calculation; or
 - (iv) amounts required to be stated in a precept under Chapter IV of I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts, the Council has any objections to them, it must follow the procedure in paragraph 7 to 10 of the Standing Order Regulations.

Note: The Standing Order Regulations are the Local Authorities (Standing Orders) (England) Regulations 2001 (SI 2001 No 3384)

3. **Decisions outside the budget or policy framework**

- (a) Subject to the provisions of paragraph 5 (virement), the Executive, committee of the Executive, individual members of the Executive and any officers, or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary or not only in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to 4 below.
- (b) If the Executive, committee of the executive, individual members of the Executive and any officers, or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and 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 must be referred by that body or person to the Council for decision,

unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

4. Urgent decisions outside the budget or policy framework

- (a) The Executive, a committee of the Executive, and individual member of the Executive or officers, or joint arrangements discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to, or not wholly in accordance with, the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
 - (i) if it is not practical to convene a quorate meeting of the full Council; and
 - (ii) if the Chairman of a relevant Improvement and Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the relevant Improvement and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of a relevant Improvement and Scrutiny Committee, the consent of the Chairman of the Council or, in the absence of both, the Vice-Chairman will be sufficient.

- (b) Following the decision, the decision-taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it, and why the decision was treated as a matter of urgency.

5. Virement

- (a) Steps taken by the Executive, a committee of the Executive, an individual member of the Executive or officers, or joint arrangements discharging executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, such bodies or individuals shall be only be entitled to vire budget in accordance with the provisions contained within the Council's Financial Regulations.

6. In-year changes to policy framework

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Executive, a committee of the

Executive, an individual member of the Executive or officers, or joint arrangements discharging executive functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:

- (a) which will result in the closure or discontinuance of a service or part of a service to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration;
- (d) which relate to policy in relation to schools where the majority of school governing bodies agree with the proposed change.

7. Call-in of decisions outside the budget or policy framework

- (a) Where an Improvement and Scrutiny Committee is of the opinion that an executive decision 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 Chief Financial Officer.
- (b) In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Executive with a copy of every member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that a decision was a departure, and to the Improvement and Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- (c) 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 Improvement and Scrutiny Committee may refer the matter to Council. In such cases, no

further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 days of the request by the Improvement and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or Chief Finance Officer. The Council may either;

- (i) endorse a decision or proposal of the executive decision-taker as falling within the existing budget and policy framework. In this case no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (ii) amend the Council's Financial Regulations or policy concern to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to, or not wholly in accordance with, the budget, and does not amend the existing framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.

Appendix 8(a) - Financial Regulations

To be inserted.

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Appendix 8(b) – Contract Standing Orders

To be inserted.

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Appendix 9 - Officer Employment Procedure Rules

1. Recruitment and Appointment

(a) Declarations

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council; or of the partner of such persons.
- (ii) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

(b) Seeking support for appointment.

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No Councillor will seek support for any person for any appointment with the Council.

2. Recruitment of Head of Paid Service and Strategic Directors

Where the Council proposes to appoint a Strategic Director and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will;

(a) draw up a statement specifying:

- i) the duties of the officer concerned; and
- ii) any qualifications or qualities to be sought in the person to be appointed;

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

- (c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

3. **Appointment of Head of Paid Service**

- (a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one member of the Cabinet.
- (b) The full Council may only make or approve the appointment of the head of paid service where no well-founded objection has been made by any member of the executive.

4. **Appointment of Strategic Directors and officers reporting directly to Strategic Directors**

- (a) A committee or sub-committee of the Council will appoint chief officers and officers reporting directly to Strategic Directors. That committee or sub-committee must include at least one member of the Cabinet.
- (b) An offer of employment as a Strategic Director or other officer reporting directly to a Strategic Director shall only be made where no well-founded objection from any member of the executive has been received.

5. **Other appointments**

- (a) **Officers other than those covered by paragraph 4 above.** Appointment of these officers (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.
- (b) **Assistants to Political Groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6. **Disciplinary Action**

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

(b) **Procedure**

(i) In the following paragraphs:

- (a) “the 2011 Act means the Localism Act 2011;
- (b) “chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders)(England) Regulations 2001;
- (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
- (d) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;
- (e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
- (f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
- (g) “relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.

(ii) A relevant officer may not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with.

(iii) The Council must convene the Statutory Officers Disciplinary Panel and must invite relevant Independent Persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

(iv) In paragraph (iii), “relevant Independent Person” means any Independent Person who has been appointed in accordance with Section 28(7) of the Localism Act 2011.

- (v) The Council must appoint to the Panel at least two such relevant Independent Persons who have accepted an invitation issued in accordance with paragraph (iii) in accordance with the following priority order:
 - (a) a relevant Independent Person who has been appointed by the Council and who lives within the Council's area
 - (b) any other relevant Independent Person who has been appointed by the Council but lives outside the authority's area
 - (c) a relevant Independent Person who has been appointed by another authority or authorities
- (vi) The Council must appoint any Panel at least 20 working days before the relevant meeting.
- (vii) Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal (which decision must be made by the Council itself), the Council must take into account, in particular:
 - (a) any advice, views or recommendations of the Panel;
 - (b) the conclusions of any investigations into the proposed dismissal; and
 - (c) any representations from the officer subject to the disciplinary proceedings.

NOTE: The Standing Order Regulations are the Local Authorities (Standing Orders) (England) Regulations 2001 (SI 2001 No 3384), and the Director of Human Resources is the "Proper Officer" for the purposes of those regulations.

Appendix 10 - Ethics Statement

Derbyshire County Council works with private, public and non-profit sectors to provide a range of services to the community. Accordingly, organisations, service providers, small businesses and individuals can expect high standards of ethical behaviour from Officers. Underpinning these expectations are our organisational values. They drive our behaviour and reflect how we conduct ourselves in our business.

This Statement provides guidance regarding the standards of ethical behaviour that organisations, service providers, small businesses and individuals can expect from Officers and that are expected of them, in their dealings with Council. Our values guide our actions in conducting business in a socially responsible and ethical manner. As an organisation, and as individuals, we respect, apply and comply with the law, support human rights and equal opportunity, protect the environment, achieve operational excellence and work for the benefit of our communities. Officers will, at all times, act with honesty and integrity in an open and transparent manner, performing their roles efficiently, effectively and fairly, thereby attracting the highest level of confidence from our community.

The Council's Code of Conduct for Employees sets the requirements of conduct in carrying out their functions. The Code of Conduct has been developed to assist Officers to:

- (i) Understand the standards of conduct that are expected of them;
- (ii) Enable them to fulfil their duty to act honestly and exercise a reasonable degree of care and diligence; and,
- (iii) Act in a way that enhances public confidence in the integrity of local government.

Key Principles

This statement is based on a number of key principles and sets out standards of conduct that meet these principles and statutory provisions applicable to local government activities. The key principles are:

- (a) Integrity

We must not place ourselves under any financial or other obligation to any individual or organisation that might reasonably be thought to influence us in the performance of our duties.

- (b) Leadership

We have a duty to promote and support the leadership of the Council in order to maintain and strengthen the public's trust and confidence in the integrity of the Council. By doing so we promote public duty to others in the Council and outside, by our own ethical behaviour.

(c) Selflessness

We have a duty to make decisions in the public interest and not act in order to gain financial or other benefits for ourselves, our family, friends or business interests. This means making decisions because they benefit the public, not because they benefit the decision maker or someone associated with the decision maker.

(d) Impartiality

We should make decisions on merit and in accordance with our statutory obligations when carrying out public business. This includes the making of appointments, awarding of contracts or recommending individuals for rewards or benefits. This means fairness to all, impartial assessment, merit selection in recruitment and in purchase and sale of Council's resources, considering only relevant matters.

(e) Accountability

We are accountable to the public for our decisions and actions and should consider issues on their merits, taking into account the views of others. This means recording reasons for decisions, submitting to scrutiny, keeping proper records, establishing audit trails and conducting audits.

(f) Openness

We have a duty to be as open as possible about our decisions and actions, giving reasons for decisions and restricting information only when the wider public interest clearly demands. This means recording, giving and revealing reasons for decisions, revealing other avenues available to the client or business, when authorised, offering all information, communicating clearly.

(g) Honesty

We have a duty to act honestly. We must declare any private interests relating to our duties and take steps to resolve any conflicts arising in such a way that protects the public interest. This means obeying the law, following the letter and spirit of policies and procedures, observing the Council's Code of Conduct for Employees and exercising any delegated authority strictly for the purpose for which the authority was delegated.

(h) Respect

We must treat others with respect at all times. This means not using derogatory terms towards others, observing the rights of other people, treating people with courtesy and recognising the different roles others play in local government decision-making.

In making our business decisions, we strive to obtain the best value for money. Depending on the circumstances, our decision-making takes into account many things including upfront costs, on-going costs, suitability, quality, reliability, availability, experience, reputation, safety, legal compliance, social value and environmental sustainability. While we strive to obtain the best price for goods and services, we do not necessarily buy at the cheapest price, nor sell at the highest price. The Council is required to balance all relevant factors, including initial cost, whole-of-life costs, quality, reliability and timeliness in determining true value for money.

Although Council business dealings must be transparent and open to public scrutiny, there will be times when information on the Council's relationships with private sector suppliers of goods and services, cannot be made publicly available. However we will always act fairly in our decision-making. That means we are objective, reasonable and even-handed. It does not mean that we can satisfy everyone all of the time. We will publicly support our decisions unless we have to maintain confidentiality or protect privacy.

Reporting Unethical Behaviour

The Council is committed to promoting ethical behaviour. Allegations of unethical behaviour can be made to the Council's Monitoring Officer.

Adopted:

Appendix 11 - Code of Conduct for Members

Introduction

The public is entitled to expect the highest standards of conduct from all Members of the County Council.

The Code sets out the standards of service that are expected from Members of the Council (including Co-opted Members). In particular, Members should act in an open and transparent manner and should not do anything which would prejudice the reputation of the Council.

It is important for Members to understand their position as regards standards of conduct, and if in any doubt they should seek guidance. This is because, in some circumstances, a breach of the Code could be a criminal offence and because any person could make a complaint to the Council if they believe a Member has breached the Code.

This Code is adopted in accordance with the Localism Act 2011.

1. Application and Scope

(1) This Code of Conduct applies to you whenever you are acting in your capacity as a Member of Derbyshire County Council, including:-

- (i) at formal meetings of the Council, its Committees and Sub-Committees, its Cabinet and Cabinet Committees
- (ii) when acting as a representative of the Council
- (iii) in taking any decision as a Cabinet Member or a Councillor
- (iv) in discharging your functions as a Councillor
- (v) at briefing meetings with officers and
- (vi) at site visits

(2) This Code does not have effect in relation to your conduct other than where it is in your official capacity.

2. Principles

In your capacity as a Member, you must act in accordance with the Council's Code of Conduct which is consistent with the following principles specified in the Localism Act 2011:-

- (1) **SELFLESSNESS:** Holders of public office should act solely in the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or friends.
- (2) **INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- (3) **OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- (4) **ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- (5) **OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- (6) **HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interests.
- (7) **LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example

3. Obligations

As a Member of Derbyshire County Council, your conduct should, in particular, address the statutory principles in the Code of Conduct by:-

- (1) Championing the needs of residents, including the whole community and, in a special way, your constituents, including those who did not vote for you, and putting their interests first.
- (2) Dealing with representations or enquiries from residents, members of the community and visitors fairly, appropriately and impartially.

(3) Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' case work, the interests of Derbyshire County Council or the good governance of Derbyshire County Council in a proper manner.

(4) Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties as a Member of Derbyshire County Council.

(5) Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.

(6) Being accountable for your decisions and co-operating when scrutinised internally and externally, including by local residents.

(7) Contributing to making Derbyshire County Council's decision making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other Members to account, but restricting access to information when the wider public interest or the law requires it.

(8) Respecting the confidentiality of information which you receive as a member by:

(i) not disclosing confidential information to third parties unless required by law to do so or where there is a clear and overriding public interest in doing so; and

(ii) not obstructing third parties' legal rights of access to information

(9) Behaving in accordance with all of Derbyshire County Council's legal obligations, with particular regard to:

(i) the Data Protection Act 1998

(ii) the Freedom of Information Act 2000

(iii) the Bribery Act 2010

(iv) the Equality Act 2010

(10) Having regard to the principles of Derbyshire County Council's policies, protocols and procedures, including those relating to the use of Derbyshire County Council's resources (which must not be used improperly for political purposes including party political purposes).

(11) Valuing other Members and officers and engaging with them in an appropriate manner and in a manner which underpins the mutual respect

between individuals that is essential to good local government and respecting and not bullying any person.

(12) Always treating people with respect, including the organisations and public you engage with and those you work alongside.

(13) Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the Council.

4. Interests

The Localism Act provides for registration and disclosure of interests and in Derbyshire County Council, this will be done as follows:

(1) Disclosable Pecuniary Interests

(a) You must comply with the statutory requirements to **register**, and **disclose at meetings** a Disclosable Pecuniary Interest as defined in Appendix A. You must not deal with any matters in which you have a Disclosable Pecuniary Interest and you must **withdraw from any meeting room** where it is being discussed unless you have been granted a dispensation¹ to enable you to take part in the discussion of, and/or vote on, that item.

(b) You have a Disclosable Pecuniary Interest in any business of the Council where it is a pecuniary interest of yours or of:-

- (i) your spouse or civil partner;
 - (ii) a person with whom you are living as husband or wife; or
 - (iii) a person with whom you are living as civil partners
- and you are aware that that other person has that interest.

(2) Personal Interests

(a) In addition to the requirements of paragraph 4(1) (a) regarding Disclosable Pecuniary Interests, you must **register** and **disclose at meetings** any interest in any business of the Council where either it relates to or is likely to affect:-

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;

¹ NB In certain circumstances, the Standards Committee has the power to grant a dispensation to allow a Member to participate in any discussion, or vote on any matter notwithstanding that he or she has a Disclosable Pecuniary Interest in that matter. Applications for dispensations should be submitted in writing to the Monitoring Officer.

(ii) any body :

(aa) exercising functions of a public nature
(bb) directed to charitable purposes; or
(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a governing member or in a position of general control or management;

(iii) any trade union of which you are a member and membership of pressure groups, the Freemasons or other influential bodies of which you are a member.

and that interest is not a Disclosable Pecuniary Interest.

(3) Other Interests

(a) In addition to the requirements of paragraphs 4(1) and 4(2) above; if you attend a meeting at which any item of business is to be considered and you are aware that you have an interest in that item, you must make **verbal declaration** of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.

(b) You have an interest in an item of business of the Council where

(i) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the Council's administrative area; or

(ii) it relates to or is likely to affect any of the interests listed in the Table in Appendix A to this Code, but in respect of a member of your family or a person with whom you have a close association (other than a "relevant person") and you are aware that that other person has that interest

and that interest is not a Disclosable Pecuniary Interest or a Personal Interest as described in paragraphs 4(1) and 4(2) above.

(4) Registration of Interests

(a) You must, within 28 days of:-

(i) this Code being adopted by the Council, or

(ii) your election or appointment to office

notify the Monitoring Officer in writing of any Disclosable Pecuniary or Personal Interest described in paragraphs 4(1) and 4(2) above.

(b) You must ensure that the Register of Interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your registrable interests described in paragraphs 4(1) or 4(2), above.

(c) Following any declaration of a Disclosable Pecuniary Interest or a Personal Interest made in accordance with paragraph 4(1) and 4 (2), above which has not been entered in the Register of Interests you must notify the Monitoring Officer of the interest within 28 days of the declaration.

5. Sensitive Interests

(1) Where you are concerned that the disclosure of an interest would lead to you or a person connected with you being subject to violence or intimidation, you may request the Monitoring Officer to agree that the interest is a sensitive interest.

(2) If the Monitoring Officer agrees, then you merely have to disclose the existence of the interest rather than the detail of it at a meeting and the Monitoring Officer can exclude the detail of the interest from the Council's publicly available version of the Register.

(3) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded is no longer a sensitive interest, notify the Monitoring Officer in writing.

(4) In this Code, "sensitive information" means information the availability of which for inspection by the public creates, or is likely to create, serious risk that you or a person connected with you may be subjected to violence or intimidation.

6. Gifts and Hospitality

(1) You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a Member from any person or body other than the Council. You may register gifts of lower value if you consider this to be appropriate.

(2) The Monitoring Officer will place your notification on a public Register of Gifts and Hospitality.

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Appendix A

Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

Interest description	Prescribed
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or beneficial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992)
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority – (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged
Land	Any beneficial interest in land which is within the area of the relevant authority.

Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge) – (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest
Securities	Any beneficial interest in securities of a body where – (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; 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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose –

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority (i.e. Derbyshire County Council);

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act namely;

- (i) the Member’s spouse or civil partner
- (ii) a person with whom the Member is living as husband and wife, or
- (iii) a person with whom the Member is living as if they were civil partners

“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.

Appendix 12 - Officers' Code of Conduct

1 Introduction

- 1.1 The public is entitled to expect the highest standards of conduct from all the County Council's employees. Your duty is to serve the Council in providing advice, implementing its policies and delivering services to the local community. In performing your duties, you must act with integrity, honesty, impartiality and objectivity.
- 1.2 The purpose of the Code is to assist you in carrying out your job by making clear the standards of behaviour the Council requires you to meet. It incorporates the existing laws, regulations and conditions of service you should be most aware of in your work for the Council.

2 Scope

- 2.1 The Code applies to all employees of the County Council and is recommended to those schools where the Governing Body performs the function of the employer. The Code also applies to contractors, agency staff, volunteers and those on student/work experience placements working on behalf of the Council.
- 2.2 You should read the Code in conjunction with professional standards, departmental requirements and guidance regarding standards of conduct in particular areas of work. Some of these additional sources of guidance are listed in the Appendix at the end of this Code. This list is not exhaustive and you should familiarise yourself with any relevant guidance which may be provided in relation to your particular area of work. You should address any further queries you have to your line manager or another senior manager in your department.

3 Accountability

- 3.1 As an employee, you are required to serve the whole of the Council and serve all Elected Members equally. You are accountable and owe a duty to the Council and you are expected, where it is a part of your duties, to provide appropriate advice to Elected Members and fellow employees with impartiality. You must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.
- 3.2 If you fail to comply with the Code's provisions, this may result in action under the Council's Disciplinary Procedure.

4 Maintenance of Standards

- 4.1 You should inform your line manager if you identify any deficiency in service resulting from breaches of this Code. If you have concerns about raising the deficiency with your line manager, and wish to maintain confidentiality, you can use the Council's Confidential Reporting Code. In this case, you should inform your line manager or your Strategic Director or the Director of Legal Services.
- 4.2 The Council's Customer Service Charter aims to assist you in delivering the Council's vision. You should be aware of what it requires of employees and it can be found on Dnet under Working for the Council – Customer Care.

5 Disclosure of Information

- 5.1 The Council is committed to open government and to rights of public scrutiny and participation. Legislation, including the Freedom of Information Act 2000 and the Data Protection Act 1998, requires that certain types of information must be made available to the public and other recognised third parties and to employees and Elected Members. Advice and guidance on the requirements of the Freedom of Information and Data Protection Acts is available from the Director of Legal Services.
- 5.2 You have a responsibility to safeguard the security and confidentiality of personal information you hold and you should ensure that only the appropriate amount of information required is provided to those who have a clearly established and legitimate need to use it. Advice and guidance on your existing statutory or common law obligations regarding confidentiality is also available from the Director of Legal Services.
- 5.3 You should not use any information obtained in the course of your employment for personal gain or benefit, nor should you pass it on to others who might use it in such a way.

6 Political Neutrality

- 6.1 Certain posts are designated politically restricted by the Local Government and Housing Act 1989. Your contract of employment

will tell you whether you hold one of these posts and, if you do, you will be required by law to observe certain restrictions regarding your out of work activities. For example, you may not:

- Stand for election to local authorities (except Town or Parish Councils), the House of Commons or the European Parliament.
- Hold office in a political party.
- Canvass at elections, or
- Speak or write publicly on matters on party political lines.

6.2 Whether or not politically restricted, you must follow the policies of Derbyshire County Council and must not allow your own personal or political opinions to interfere with your work.

6.3 As a part of your work, you may be required to advise political groups. You must do so in ways which do not compromise your political neutrality.

7 Relationships

7.1 Elected Members

7.1.1 Mutual respect between employees and Elected Members is essential to good local government and working relationships should be kept on a professional basis. Close personal familiarity between yourself and individual Elected Members can damage the relationship and prove embarrassing to other employees and Elected Members and should therefore be avoided.

7.2 The Local Community and Service Users and Other Employees

7.2.1 You should always remember your responsibilities to the community you serve and ensure courteous, efficient and impartial service delivery to all service users, groups and individuals within that community, as set out in the Customer Service Charter and in line with the Council's vision of improving life for local people. These responsibilities apply equally to your conduct with fellow employees, contractors, agency staff, volunteers and those on student/work experience placements working on behalf of the Council.

7.3 Contractors

7.3.1 If you engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, you should declare that relationship to your Strategic Director.

7.3.2 Orders and contracts must be awarded on merit, in accordance with Financial Regulations and Standing Orders in Relation to Contracts, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

7.3.3 As a private citizen, you should be aware of possible conflicts of interest when you buy goods or use the services of firms who have dealings with the Council and you should follow departmental procedures relating to the disclosure of any such transactions.

8 Equalities

8.1 You must comply with the Council's Equalities and Diversity Policy and legal requirements relating to equality issues. One of the Council's objectives is to promote equality of opportunity and prevent unlawful discrimination in all of its activities.

9 Appointment and other Employment Matters

9.1 If you are involved in the appointment of employees, you should be aware that it is unlawful for you to make an appointment based on anything other than the ability of the candidate to undertake the duties of the post. To avoid any possible accusation of bias, you should not be involved in an appointment where you are related to an applicant or have a close association with the applicant.

9.2 You should not be involved in decisions relating to discipline, promotion or pay and conditions adjustments for another employee who is a relative or with whom you have a close association.

10 Taking Other Employment

10.1 You should not undertake additional employment (paid or unpaid) – or allow your name to be put forward for consideration for such work – if your proposed additional work either will or has the potential to:

- Create a conflict of interest.
- Overlap with official duties.
- Make use of material to which you have access by virtue of your position.
- Weaken public confidence in the Council.

Where you consider your proposed secondary employment may conflict with these requirements, you should inform your line manager

who will advise you on whether you need to seek the agreement of your Strategic Director to your proposed additional employment.

11 Personal Interests

- 11.1 Personal interests must not conflict with your public duty. An official position or information acquired in the course of your employment must not be used to further personal interests or for the interests of others.
- 11.2 You must declare to your Strategic Director any:
- Financial interest which could conflict with the Council's interests.
 - Non-financial interest which could conflict with the Council's interests.
 - Interest in an existing or proposed contract with the Council.
 - Membership of any organisation which could conflict with the Council's interests.
- 11.3 You should make any such declaration in writing to your Strategic Director. Any such declaration by a Strategic Director should be made in writing to your Strategic Director.

12 Stewardship

- 12.1 You must ensure that you use public funds entrusted to you in a responsible and lawful manner and must not utilise property, vehicles or other facilities of the Council for personal use unless authorised in advance to do so. You should strive to ensure value for money to the local community and to avoid legal challenge to the County Council.
- 12.2 Personal Use of Internet and Email – any personal use must be in accordance with the Council's current Internet and Email Policy and Guidance and the related Frequently Asked Questions accessible on Dnet.
- 12.3 Personal Telephone Calls – Personal incoming and outgoing calls should occur infrequently and be kept as short as possible. You should use personal mobile phones or call boxes for any outgoing personal telephone calls. You may use charge cards to pay for personal telephone calls on Council telephones with the prior agreement of your line manager. You should refer to departmental guidelines on the personal use of Council mobile phones.

12.4 Intellectual Property is property which enjoys legal protection and is a result of intellectual effort, including patents, copyright, trademarks, designs and software. Where developed in the course of your duties, such intellectual property is the property of the Council. You should not make use of the Council's intellectual property to conduct private work.

12.5 Any copies of material taken for use within the Council must only be as allowed under the Copyright Act and under the appropriate licensing agreement.

13 Corruption

13.1 You must be aware that it is a serious criminal offence for you to corruptly receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in your official capacity.

14 Hospitality and Gifts

14.1 You should only accept hospitality if there is a genuine need to impart information or to represent the Council. You should also ensure that accepting the hospitality does not create a conflict of interest and is not likely to cause embarrassment to the Council.

14.2 You should report the offer of hospitality, whether accepted or not, to your line manager.

14.3 Gifts should only be accepted if they are of nominal value (under £50) and reported to your line manager.

14.4 If gifts of more than nominal value (£50 and over) are offered or you suspect that an improper motive exists, you should always decline the offer and report it to your Strategic Director. This includes any preferential rates offered for goods and services. Officers should report the offer to your Strategic Director.

15 Sponsorship

15.1 Where an outside organisation is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the Code's provisions concerning acceptance of hospitality or gifts and working with contractors apply. No sponsorship deal should be made without the prior agreement of your Strategic Director.

15.2 Where the Council wishes to sponsor an event or service, you must declare in writing to your Strategic Director any possible conflict of interest or any benefit you or a member of your family or anybody with whom you have a close association. Similarly, where the Council is providing sponsorship or grant aid in the community, you should ensure that impartial advice is given and that there is no conflict of interest involved.

16 Contact with the Media

16.1 Any enquiries from the media on work-related matters should be referred to the Communications Team. You should seek authorisation from your line manager, who should consult the Communications Team, before you speak, write or give interviews to the media.

16.2 If you wish to publish books, articles or letters you have written in connection with your duties, you must first consult your Strategic Director. Only with the consent of your Strategic Director may items be published.

Appendix

A number of additional sources of guidance are listed here. However, this list is not exhaustive and you should ensure that you familiarise yourself with any relevant guidance which may be provided in respect of your particular area of work. Any queries in this respect should be addressed to your line manager or Departmental Personnel Section.

- Personnel Policies and Procedures of the Council.
- Terms and Conditions of Employment
- Confidential Reporting Code
- Guidance on the Disciplinary Procedure
- Internet and Email Use Policy and Guidance
- Equal Opportunities Policy
- General Financial Handbook, containing Standing Orders in Relation to Contracts, Financial Regulations, Financial Procedures, guidance on computers and technology, and extracts from the Local Government Act 1972, the Local Government Finance Act 1988 and the Accounts and Audit Regulations 1983.
- Council's Policy Statement - 'Anti-Fraud/Corruption Strategy'.
- Data Protection Act 1998
- Freedom of Information Act 2000
- Computer Misuse Act 1990
- Energy and Utility Procedural Guide
- Policy Statements on AIDS and other Infectious Diseases
- Administrative Document Officers' Travelling and Subsistence Expenses
- Customer Service Charter
- Minimum Practice Standards Established by Service Regulators (e.g. Commission for Social Care Improvement)

- Codes of Practice Established by Professional Bodies (e.g. General Social Care Council)

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Appendix 13 - Member and Officer Relationships Protocol

1. Underlying Principles

The principles underlying this Protocol are as follows:

- There shall be mutual courtesy and respect between Members and Employees with regard to their respective roles as set out below.
- Members and Employees shall each carry out their respective duties in the best interests of the Council set out in Appendices xx and xx to this Constitution.

This Protocol applies to all dealings between Members and Employees and not just in formal meetings. In addition to this Protocol, Members and Employees are obliged to follow their respective Codes of Conduct.

2. The Role of Members

These include the following:

- Setting the strategic direction and priorities of the Council via the Council Plan and the policy framework.
- Develop and set policies to promote these priorities which will then be implemented by the Employees.
- Monitor how those policies are being implemented.
- Represent the views of their communities and ward constituents, and deal with individual casework.
- Respect the statutory roles of Strategic Directors including the Head of Paid Service, the Director of Finance and ICT as Section 151 Officer, the Director of Legal Services as the Monitoring Officer, and the significance to be attached to their advice.
- Consult with the communities they represent on the development of policy, national and other local initiatives.
- Consult with the Monitoring Officer and the Director of Finance and ICT about vires, maladministration, financial impropriety and probity. Also where they have any doubt as to whether the particular decisions were, or are likely to be, contrary to the policy framework, or contrary to, or not wholly in accordance with the budget and/or the law.
- Respect Employees' political impartiality.
- Promote, and themselves demonstrate, the highest standards of conduct and ethics.

Members must not insist that any Employee:

- Change his or her professional advice.
- Take any action, or not take action that the Employee considers unlawful or illegal, or which would be likely to amount to maladministration.
- Act in a manner that could be perceived as party political

3. The Role of Employees

Employees:

- Should conscientiously implement the policies set by Members.
- Will ask for guidance on implementation of the policies set by Members if they are unclear about any aspect of those policies.
- Give such professional advice to Members as may be required of them from time to time.
- Carry out their delegated functions to the best of their ability and in the interests of the Council.
- Must remember that he or she is employed by the Council as a whole and not by any particular part of the Council and act accordingly.
- Are under a duty to help all Members and all parts of the Council equally.
- Should take all relevant matters into account when formulating advice to Members.
- Will provide, or arrange for, training and development to Members as may be required of them from time to time.
- Will respond to queries raised by Members in a timely manner.

Employees must not:

- Set policy other than for the smooth running of office procedures and processes and as may have been delegated under the Council's Constitution and Scheme of Delegations.
- Take any action, or not take action, which would be unlawful or illegal or which would be likely to amount to maladministration.

4. Relationship between Members and Employees

The relationship between Employees and Members should be characterised by mutual respect, which is essential to good local government. Members and officers should therefore have regard to the following:

- Close personal familiarity between individual Members and Employees can damage professional relationships and prove embarrassing to other

Members and Employees. Situations should be avoided that could give rise to suspicion and any appearance of improper conduct. This includes excessive socialising between Members and Employees.

- Any close personal or family relationships (e.g. parent/child, spouse/partner) between Employees and Members should be disclosed to your Strategic Director who will then decide how far this needs to be disclosed to others.
- Members should not raise matters relating to the conduct or capability of Employees either individually or collectively at meetings held in public/or in the Press. Employees have no means of responding to criticism like this in public. If Members feel they have not been treated with proper respect, courtesy or have any concern about the conduct or capability of an Employee they should raise the matter with the Strategic Director of the department concerned.

5. Relationship between the Leader, Chairman of the Council, Members and Employees

The Leader, Chairman of the Council and Committee Chairman shall be bound by the same provisions set out in paragraph 2 when acting as Leader/Chairman of the Council or Committee Chairman, as they would be when acting as an ordinary Council Member.

6. Relationship between the Chairman of Improvement and Scrutiny Committees, Members of Improvement and Scrutiny Committees and Employees

The Chairmen and Members of the Council's Improvement and Scrutiny Committees and related bodies shall:

- Seek the advice of the Monitoring Officer where they consider there is doubt about the vires for a decision; or the Monitoring Officer and other appropriate Employees where they consider a decision of a Committee might be contrary to the policy framework.
- When considering calling Employees to give evidence the Improvement and Scrutiny Committees shall not normally, without the consent of the relevant Strategic Director, request the attendance of a junior Employee, to ensure that more junior Employees are not put under undue pressure.
- When asking Employees to give evidence confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions. Employees may be asked to give a professional opinion, but Employees may not be expected to give a political view.
- Where they consider it appropriate, ask Employees to explain and justify advice given to Members prior to decisions being taken and justify

decisions they themselves have taken under the Council's Constitution and their responses to consultations under the Scheme of Delegations.

- Not to question Employees in such a way as to either be in breach of the Council's Whistleblowing policy in relation to harassment, or deal with matters which are of a disciplinary nature.
- At all times, respect the political impartiality of the Employees.

7. Relationship between the Chairman and Members of Other Committees and Employees

This shall apply to all the Council's Committees and Joint Committees. The Chairman and Members of those Committees shall:

- Be bound by the same provisions set out in section 2 above when sitting as a Committee; and
- Give Employees the opportunity to present any report and give any advice they wish to present or give.

8. Employee Relationships with Party Groups

When dealing with the various party groups:

- Any request for advice to a political group or Member will be treated with strict confidence by the Employees concerned and will not be accessible by any other political group.
- Employees shall exercise care when giving briefings or commenting on the policies and actions of any of the Council's Committees or panels and maintain political impartiality at all times.

When acting in party groups, and dealing with Employees, Members shall:

- Recognise that attendance at Party Group meetings by Employees is not compulsory, but Party Groups may properly call upon Employees to support and contribute to such deliberations either by attendance or by preparing documentation for discussion by a group, subject to the availability of resources.
- Recognise that Party Groups are not empowered to make decisions on behalf of the Council and that any conclusions reached by such groups should not be actioned by Employees.
- Ensure they do not do anything that may compromise Employee impartiality.
- Ensure that confidential matters are not divulged to non-councillors.

9. Members in their Ward Role

When acting in their ward role, Members:

- Need to be mindful of their competing roles, i.e. acting for the Council and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on Employee time.
- Recognise the Employees' right to suggest that senior Employees, the Council or a Committee/Improvement and Scrutiny Committee should authorise additional work requested by individual Members.

10. Member Access to Documents and Information

Save as provided below every Member of a Committee, Improvement and Scrutiny Committee and/or Regulatory Committee of the Council has a right to inspect documents about the business of that Committee including Improvement and Scrutiny Committees as set out in the Access to Information Procedure Rules included within the Council's Constitution at Appendix xx.

A Member who is not a member of a specific Improvement and Scrutiny Committee/Committee or Regulatory Committee may have access to any documents of that part of the Council if:

- He or she satisfies the Council's Monitoring Officer, that he or she reasonably needs to see the documents to perform his or her duties; and
- The document or papers or information do not contain 'confidential' or 'exempt information'.

A Member should seek advice from the Monitoring Officer in circumstances where he or she wishes to inspect any document or have access to any information about a matter:

- In which he or she has a personal or prejudicial interest; or
- Where to do so would be in breach of the Data Protection Act 1998.

11. Non-Council Members on Council Bodies

This applies to all those people who are not elected Members of the Council, but who are Members (including Independent Members) of, or attend any of the Council's Committees or any other bodies.

This Protocol applies equally to such non-Council members on Council bodies, as it does to Council Members.

12. Press Releases

All Council press releases:

- Should be issued through the Council's Communications Team.
- Should be concerned with matters of policy.
- Should not contain anything of a political nature. In this respect special regard must be given to the relevant legislation concerning publicity issued by the Council, especially around election time.

13. Correspondence

All correspondence written on behalf of the Council must be written on the relevant headed paper.

When Members are writing in their capacity as a Member they must make it clear whether they are writing on behalf of the Council or as the ward Member.

Correspondence between individual Members and Employees should be treated as confidential unless the Member or Employee indicates otherwise.

All correspondence should normally be open to the inspection of the public. This does not apply to correspondence written in connection with legal proceedings, contractual matters or any other matter where papers can remain 'exempt' within the meaning of Schedule 12A to the Local Government Act 1972, as amended, or if this would be in conflict with the Data Protection Act 2018.

14. Breach of the Protocol

Complaints of a breach of this Protocol by a Member may be referred to the relevant Leader and/or Chief Whip of the relevant Political Group or the Monitoring Officer, who shall consult with the Chairman of Governance and Ethics Committee and, if appropriate, refer the complainant to the Governance and Ethics Committee to be considered further.

Complaints of a breach of this Protocol by an Employee may be referred to the relevant Strategic Director, the Monitoring Officer or the Section 151 Officer.

15. Further Advice

Any particular cases of difficulty or uncertainty under this Protocol should be raised with the Monitoring Officer who will advise how to proceed.

Adopted:

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Appendix 14 - MEMBERS' ALLOWANCES - INDEPENDENT REMUNERATION PANEL

1. The Independent Remuneration Panel plays a critical role in the setting of Members' Allowances. Allowances and expenses of politicians and public servants are subject to a great deal of public interest. All councils publish their Members' Allowances Scheme (See Part 6 of the Constitution), setting out the allowances Members are entitled to receive and what expenses they are able to claim for. The total amount of allowances claimed by each councillor is published annually by the Council and reported in the press. The Independent Remuneration Panel is responsible for reviewing the Members' Allowances Scheme and recommending change when necessary.
2. The Local Government Act 2000 and the Consolidated Members' Allowances Regulations 2003, enable the Panel to consider the following allowances:
 - Basic allowance
 - Special responsibility allowances
 - Dependent carer's allowance
 - Pensions for Members
 - Travel and subsistence allowances
 - Co-optees' allowances
 - Provision for suspension for allowances in certain circumstances
 - Suitability of an index for allowances and what that index may be.
3. Full Council appoints independent members to the Panel. The Panel will be composed of at least three independent members, although in Derbyshire, the Panel currently comprises five members. Panel members cannot be a Member of the Council or any of its committees, or an employee of the Council. They are appointed for a period of four years and no member may serve for more than two terms of office of four years.
4. The Panel's recommendations are published and considered by all Councillors and must be voted on by the full Council.
5. The Panel is advised and supported by the Director of Legal Services and Monitoring Officer and the Director of Finance and ICT of Derbyshire County Council. Government guidance requires that all

necessary evidence, guidance and information is made available to the Panel.

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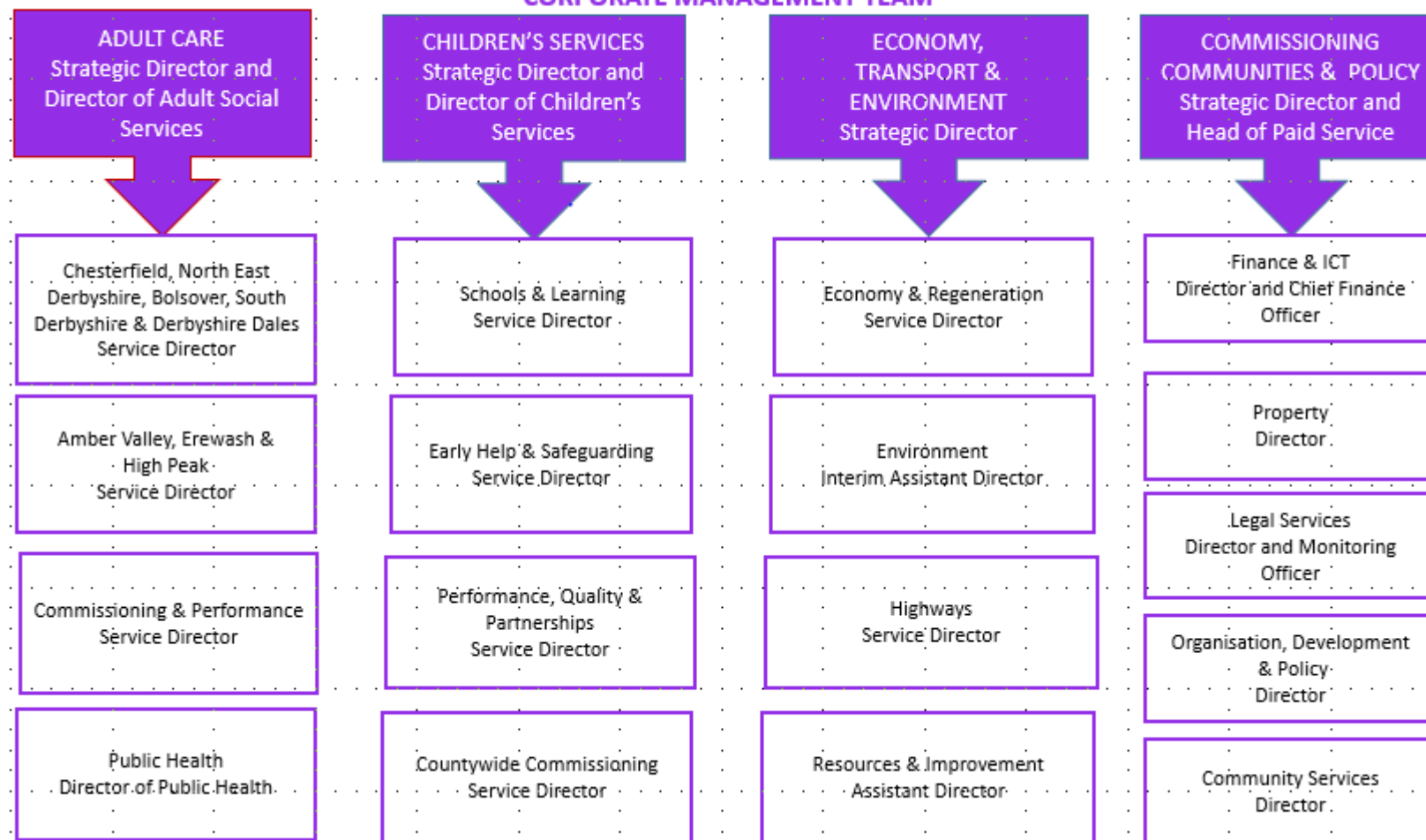
Appendix 15 – Members’ Allowance Scheme

To be added.

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SENIOR MANAGEMENT STRUCTURE

CORPORATE MANAGEMENT TEAM

October 2018 -
PUBLIC

Appendix 17 – Elected Member Role Profiles

The role of the modern day councillor is high profile, complex and changing. It is important therefore, that Councillors receive clear guidance as to what is expected of them both in their role as a ward councillor and also when undertaking roles with SRAs.

Role profiles detail the responsibilities of the various roles, providing clarity to Councillors, officers and the public about what is expected within each remit and they can also be used to support Councillors in their development, by providing a means of identifying development needs both in their current role and roles they may aspire to in the future.

The Ward Member Role Profile is the foundation for all other role profiles and the responsibilities, skills and knowledge required for roles attracting SRAs are in addition to those for a ward councillor.

Attached are role profiles for the following positions within the Council which were agreed at the Council meeting held on 6 June 2018:

- Ward Member (Annex 1)
- Leader of the Council (Annex 2)
- Deputy Leader of the Council (Annex 3)
- Cabinet Member (Annex 4)
- Cabinet Support Member (Annex 5)
- Chairman of the Council (Annex 6)
- Chairman of a Council Committee (Annex 7)
- Vice-Chairman of a Council Committee (Annex 8)
- Chairman of an Improvement and Scrutiny Committee (Annex 9)
- Opposition Group Leader (Annex 10)

Ward Member Role Profile

Accountable to:

- The public.
- Full Council.

Role Purpose

Elected Members will be expected to:

- Represent the views of their local community.
- Deal with constituents' enquiries and representations – undertaking casework on their behalf and serving all fairly and equally.
- Liaise with Cabinet Members, other Councillors, Council officers and partner organisations to ensure that the needs of local communities are identified, understood and supported.
- Participate in the democratic process and the good governance of the County Council.
- Represent the Council when appointed to outside bodies.
- Act at all times with probity and propriety and in the best interests of the Council.
- Uphold the Council's Constitution at all times.

Main Duties and Responsibilities include to:

- Act as a community champion and leader for their constituency and for the county, providing direction, resolving concerns and reconciling competing views and interests within their local communities.
- Represent individual constituents, undertaking casework on their behalf.
- Develop and maintain knowledge of how the Council works and represent the Council to the community.

- Provide information to the Council about their constituencies and act as a channel of two-way communication for their local communities about the decisions of the Council and Council Procedures.
- Participate in Full Council meetings, making informed and balanced decisions.
- To act in accordance with the Council's Constitution, Standing Orders, Principles of Decision-Making and Financial Regulations.
- Participate as a Member of Council committees to which they have been appointed by preparing for meetings, entering into debate, canvassing local people's views where appropriate and providing information to communities on the decisions taken.
- Attend meetings in their divisions as and when required.
- Attend and participate in meetings relevant to their area as appropriate.
- Represent the interests of the Council and its constituents on outside organisations.
- Develop and maintain a working knowledge of the Council's management arrangements, powers and duties.
- Develop and maintain a working knowledge of partner organisations at a local, regional and national level.
- Undertake training and development that is deemed necessary for the role of Elected Member.
- Attend conferences and seminars as required, reporting back on learning from these events.
- Establish and maintain effective working relationships with Members of all political parties and with officers of the Council.
- Uphold the Council's Constitution and promote high ethical standards, acting in accordance with the Members' Code of Conduct.
- Have regard to Equality and Diversity in accordance with the Council's policies and codes of conduct.

Leader of the Council Role Profile

Accountable to:

- Full Council
- The public

Role Purpose and Activities

- Provide strong, fair and visible political leadership and direction to the Council and in relations to citizens, stakeholders and partners in the co-ordination of Council policies, strategies and service delivery;
- Lead the Council's efforts to achieve its mission;
- Lead in promoting the aims and core values of the Council;
- Lead the development of local, regional, national and European policy and strategic partnerships relating to the Council;
- Assume overall responsibility for guiding the development and formulation of corporate priorities and strategic policy direction and for presenting those policies to the Council and the wider community, acting as the principal political spokesperson on corporate and strategic issues;
- Provide political guidance to the Corporate Management Team on the implementation of the Council's priorities and objectives and revenue and capital budgets;
- Appoint other Cabinet Members to form the Cabinet;
- Chair and manage the business/work programme of the Cabinet, ensure a coordinated and coherent approach is taken to policy development and the delivery of services and also, where relevant and taking into account any advice from the Strategic Directors, the Council's Monitoring Officer or Director of Finance and ICT, ensure that proposals are made to the Council for decision within appropriate timescales and in accordance with the Budget and Policy Framework of the Council and all legislative and procedural requirements;
- Chair meetings of the Cabinet and determine the frequency and timing of meetings of the Cabinet and placing items on its agenda as he/she thinks appropriate;
- Ensure the development of effective corporate policies reflecting the Council's commitment to continuous improvement and co-ordinate the work of the Cabinet in:
 - (a) Developing corporate policies and programmes;
 - (b) Delivering high quality services to the people of the County;
 - (c) Monitoring performance;

- (d) Preparing and monitoring revenue and capital budgets;
- (e) Reviewing the effectiveness of the Council's organisation and management process;
- (f) Developing policies to promote the social, economic and environmental wellbeing of the County.

- Delegate executive functions to any individual member of the Cabinet;
- Ensure that decisions are taken properly, openly and, where appropriate, publicly and that key decisions are properly programmed and subject to effective public consultation;
- Involve local people and communities in the business and activities of the Council as fully as possible;
- Encourage scrutiny of the Council's policies and service delivery and the input to policy by all Councillors;
- Ensure that Members are treated responsibly and responsively in representing their constituents;
- Maintain and promote the highest standards of conduct in the Council's affairs and in the appointment of its staff;
- Chair Strategic Director Appointment Panels;
- Be consulted on any matter in relation to which consultation with the Leader is required under the Council's Constitution;
- Represent the Council at all levels, liaise with Government and other relevant agencies where appropriate and act as the principal ambassador for the Council in advocating and explaining its roles and function and promoting it as a listening and accessible organisation;
- Consider the learning and development needs of all Members and arrange suitable briefing and learning opportunities to take place through appropriate mechanisms; and
- Be responsible for personal development and undergo appropriate development and continuous improvement for any role undertaken.

Deputy Leader of the Council Role Profile

Accountable to:

- Full Council
- The Leader of the Council
- The public

Role Purpose and Activities

- Undertake a full deputising role in the absence of the Leader;
- Undertake portfolio responsibilities as a Cabinet Member as determined by the Leader;
- Undertake specific tasks and responsibilities as requested by the Leader;
- Work actively with the Leader to co-ordinate the work of the Cabinet;
- Share and support in general the full workload range of the Leader;
- Chair the Cabinet in the absence of the Leader of the Council;
- Promote and co-ordinate liaison between the Leader, the Cabinet and non-executive Members; and
- Be responsible for personal development and undergo appropriate development and continuous improvement for any role undertaken.

Cabinet Member Role Profile

Accountable to:

- Full Council
- The Leader
- The Cabinet
- The public

Role Purpose and Activities

As a member of the decision-making Cabinet, the Cabinet Member will be responsible for making important decisions on a wide range of issues which affect and shape quality of life in the County. In particular they will:

- Act as the main focus of day to day political leadership, decision-making and democratic accountability at a whole authority level;
- Be a publicly recognisable and accountable 'key decision-maker' taking responsibility for Council performance;
- Collectively provide strong and fair executive leadership and clear political guidance to other Councillors and officers and the community;
- Develop with partners a clear vision for what the County needs and develop policies and take decisions which respond to local people's needs and aspirations;
- Take strategic decisions on competing priorities;
- Champion the vision and interests of the Council and the County on the regional and national stage;
- Be instrumental in building and nurturing local and thematic partnerships;
- Provide leadership and direction within the Council for designated portfolio areas;
- Work with senior officers within the Council and be accountable with them for the performance of services, allowing performance to be assessed from the perspective of customers and citizens;
- Develop financial and investment strategies to fulfil the Council's commitments to the sustainable community strategy for the County, working with partners in the public, business, voluntary and community sectors;
- Ensure that there is appropriate liaison with and support for frontline Councillors in their various roles, responding to them when they raise issues and ensuring that their local knowledge is taken into account when developing Council policies;

- Develop a clear understanding of their portfolio, the scope and range of the areas for which they are responsible and Council policies in respect of those areas;
- Act as spokesperson or advocate for those services within their portfolio;
- Attend Improvement and Scrutiny Committees as appropriate on matters relating to their portfolio; and
- Be responsible for personal development and undergo appropriate development and continuous improvement for any role undertaken.

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Cabinet Support Member Role Profile

Accountable to:

- Full Council
- The Leader
- Cabinet Members
- The public

Role Purpose

The role of Cabinet Support Member is specifically recognised in the statutory guidance issued by the Government under the Local Government Act 2000 for local authority executive arrangements. That guidance suggests that such a role might help provide an effective link between the Cabinet and other Members and also an effective developmental role for the Members involved.

Activities

To support the Cabinet as a whole or an individual Cabinet Member with his or her portfolio workload including:

- Assist in the development with partners, of a clear vision for what the County needs and develop policies and take decisions which respond to local people's needs and aspirations;
- Have an input on strategic decisions on competing priorities affecting the portfolio and the Council as a whole;
- Provide support in championing the vision and interests of the Council and the County on the regional and national stage;
- Help build and nurture local and thematic partnerships;
- Help provide direction within the Council for designated portfolio areas;
- Work with senior officers within the Council in monitoring the performance of services, including performance from the perspective of customers and citizens;
- Assist to develop financial and investment strategies to fulfil the Council's commitments to the sustainable community strategy for the County, working with partners in the public, business, voluntary and community sectors;
- Assist in providing appropriate liaison with and support for frontline Councillors in their various roles, responding to them when they raise issues and ensuring that their local knowledge is taken into account when developing Council policies;

- Develop a clear understanding of the portfolio, the scope and range of the areas of responsibility and Council policies in respect of those areas;
- Act as an advocate for those services within the portfolio;
- Attend Improvement and Scrutiny Committees as appropriate on matters relating to the portfolio; and
- In general terms and relation to all of the above: attending/chairing relevant internal meetings; reading and commenting on papers and undertaking research; liaising with relevant officers; drafting press releases; carrying out interviews and representing the Council on appropriate external groups.
- Be responsible for personal development and undergo appropriate development and continuous improvement for any role undertaken.

Chairman of the Council Role Profile

Accountable to:

- Full Council
- The public

Role Purpose and Activities

- Provide strong, fair and visible civic and ceremonial leadership to the Council and in relation to citizens, stakeholders and partners;
- Attend or be represented at such civic and ceremonial functions as the Council determines appropriate;
- Be an ambassador for the Council and the County;
- Promote public involvement in the Council's activities;
- Uphold and promote the Council's Constitution and interpret the Standing Orders of the Council when necessary;
- Preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- Request such additional meetings of the Council as may be considered necessary or appropriate;
- Ensure the Council meeting is a forum for the debate of matters of concern to the local community and a forum in which Members who are not on the Cabinet can hold the Cabinet to account;
- Be consulted on any matter in relation to which consultation with the Chairman of the Council is required under the Constitution; and
- Be responsible for personal development and undergo appropriate development and continuous improvement for any role undertaken.

Chairman of a Committee Role Profile

Applicable Committees

This role profile applies to the Chairman of the following Council Committees:

- Pensions and Investments Committee
- Audit Committee
- Regulatory Planning Committee
- Regulatory Licensing and Appeals Committee
- Standards Committee

Accountable to:

- Full Council
- External regulatory bodies
- The public

Role Purpose and Activities

- Provide leadership and direction for the Committee;
- Chair and manage the business of the Committee, ensuring effective engagement by all Committee Members;
- Call such additional meetings of the Committee as may be considered necessary or appropriate and to determine the frequency and timing of meetings and the placing of items on the agenda as he/she thinks appropriate;
- Promote the role of the Committee both within and outside the Council;
- Represent the Council and the Committee on relevant external bodies as required;
- Guide Committee Members through the process of decision-making in relation to those functions delegated by the Council to the Committee;
- Be consulted on matters of business between Committee meetings;
- Ensure that the Committee takes balanced decisions based on all relevant evidence, always with impartiality and fairness;
- Ensure, where appropriate, that there is full consultation with and participation by all interested parties on issues to be considered by the Committee;
- Ensure that Committee decisions are properly recorded;
- Liaise and consult with relevant officers wherever appropriate;
- Consider the learning and development needs of the Committee and arrange suitable briefing and learning opportunities to take place through appropriate mechanisms;

- Developing broad knowledge of the role and functions of the Council, its Members and its structures and procedures;
- Have an awareness of national and local issues relating to the role of the Committee; and
- Be responsible for personal development and undergo appropriate development and continuous improvement for any role undertaken.

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Vice-Chairman of a Committee Role Profile

Applicable Committees

This role profile applies to the Chairman of the following Council Committees:

- Pensions and Investments Committee
- Audit Committee
- Regulatory Planning Committee
- Regulatory Licensing and Appeals Committee
- Standards Committee

Accountable to:

- Full Council
- External regulatory bodies
- The Chairman of the Committee
- The public

Role Purpose and Activities

- Provide a deputising role in the absence of the Chairman;
- In the absence of the Chairman, to chair meetings of the Committee;
- Undertake specific tasks and responsibilities as requested by the Chairman;
- Share and support in general the full workload range of the Chairman;
- Work actively with the Chairman to co-ordinate the business of the Committee;
- Developing broad knowledge of the role and functions of the Council, its members and its structures and procedures; and
- Have an awareness of national and local issues relating to the role of the Committee.

Chairman of Improvement and Scrutiny Committee Role Profile

Applicable to:

- Health Improvement and Scrutiny Committee
- People Improvement and Scrutiny Committee
- Places Improvement and Scrutiny Committee
- Resources Improvement and Scrutiny Committee

Accountable to:

- Full Council
- External regulatory bodies
- The public

Role Purpose and Activities

The Chairman of the Improvement and Scrutiny Committee will:

- Chair meetings of the Improvement and Scrutiny Committee;
- Provide strong, fair leadership and clear guidance to Members and officers in relation to scrutiny functions;
- Have overall responsibility for the direction of scrutiny carried out by their Committee and for ensuring that an appropriate annual scrutiny work programme is set;
- Continuously monitor and evaluate the relevance of the Committee's annual Scrutiny Work Programme;
- Meet regularly with the Council's Improvement and Scrutiny Officers in order to ensure that the annual Scrutiny Work Programme is continually updated and that objectives within the Work Programme are achieved;
- Ensure that the work of the Improvement and Scrutiny Committee contributes to the delivery of continuous improvement in services and implementation of best practice;
- Ensure that the Committee reviews, challenges and questions the implementation of agreed policy and service delivery and makes recommendations to the Cabinet and Council to improve policy, performance and service delivery;
- Liaise with Cabinet Members at the appropriate time to ensure that the Committee is briefed on significant issues relating to the area of responsibility of the Committee;
- Seek to involve all Improvement and Scrutiny Committee Members in its work;
- Present reports and represent the views of Improvement and Scrutiny Committees at meetings of the Cabinet; and
- Be responsible for personal development and undergo appropriate development and continuous improvement for any role undertaken.

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Minority Opposition Group Leader Role Profile

[As it is expected that the Deputy Minority Opposition Group Leader should be able to deputise effectively for the Leader, this profile is applicable to the position of Deputy Opposition Leader]

Accountable to:

- Full Council
- The public

Role Purpose and Activities

In addition to the role purpose, duties and responsibilities of an Elected Member, the Minority Opposition Group Leader will be expected to:

- Be a political figurehead and the principal political spokesperson for their party;
- Provide leadership in building political consensus, where possible, around Council policies;
- Work with others in building a vision for the Council and the community;
- Provide strong, clear leadership in the coordination of Group policies and practices; and
- Scrutinise the Leader of the Council and the Cabinet.
- Ensure effective communication between party group members, other political groups, officers, the community and other partners.
- Provide support and mentoring to members of their Group as appropriate;
- Be aware of individual skills within the Group and facilitate further development as required;
- Comment on, challenge and review the Council's performance and policies;
- Nominate members of the Group to committees, working groups and outside bodies;
- Liaise with the Strategic Directors, Directors and other officers of the Authority on a regular basis in relation to Council business as appropriate;
- Support open and transparent scrutiny, encouraging the Group to work constructively with the Council, the Executive and statutory partners; and
- Adhere to the Authority's Equality and Diversity policies.

Appendix 18 – General Data Protection Regulations

The General Data Protection Regulation, as supplemented by the Data Protection Act 2018, came into effect in May 2018. The legislation sets out the responsibilities of the Council as data controller and the rights of individual data subjects in relation to which the Council holds personal data.

As it is required to do under the legislation, the Council has adopted a Record of Processing Activity and a Council Data Protection Policy drawing on a comprehensive set of information audits. These can be found on the relevant section of the Council's website.

The Council has effective governance of data protection in place via Cabinet and Audit Committee. The officer roles of Data Protection Officer, SIRO and Caldecott Guardian are allocated to senior officers and day to day information governance is overseen by the Information Governance Group chaired by the Director of Finance & ICT.

The Council and individual Members are registered with the Information Commissioner's Office. Both the Council's Privacy Notice and the supplementary Elected Members Privacy Notice are published on the Council's website.

Appendix 19 - Guidance to Councillors Appointed to Outside Bodies

1. Introduction

This guidance sets out the main issues which councillors should consider when appointed by the Council to serve on outside bodies.

In the context of this guidance 'outside bodies' include trusts, companies, charities, school governing bodies, industrial and provident societies and community associations. Councillors may be involved as a director, trustee, governor or member (with or without voting powers).

Councillors who are involved in the management of outside bodies have responsibilities to that body that must be acted upon. Their role, responsibilities and potential liabilities will depend upon the legal nature of the organisation and the capacity in which they have been appointed. Failure to act in a proper manner may give rise to personal liability or liability for the Council.

With the increasing emphasis on partnership working, councillors, as community leaders, have an important role to fulfil in supporting and advising outside bodies. However, this can give rise to conflicts of interest, particularly where the organisation is seeking or receiving funding from the Council. Councillors always need to be clear about their roles and alert to potential conflicts of interest in order to ensure transparency and public confidence in local democracy.

The purpose of this guidance is to assist councillors in the discharge of their responsibilities on outside bodies clearly and effectively. It covers, primarily, the position of councillors appointed by the Council to serve on outside bodies, though much of the advice applies equally to councillors who are involved with outside bodies in a private capacity. In those situations, however, the Council's insurances will not apply.

This guidance is general and councillors should contact the Monitoring Officer for further advice if they have any particular issues of concern.

2. Issues to consider before appointment

Before accepting an appointment to an outside body councillors should check the:

- legal status of the organisation, e.g. company, trust, charity, unincorporated association;

- capacity in which the councillor is to be appointed, e.g. director, trustee,
- member with voting rights or member with observer status;
- purpose of the organisation and how this relates to the Council's
- functions and objectives;
- relationship between the Council and the body and the likelihood and extent of any conflicts of interest;
- requirements of the organisation's governing instrument, e.g. constitution; trust deed; memorandum and articles of association, both as a member and generally;
- financial status of the organisation;
- governance and decision making arrangements, including the management of risk;
- any code of conduct for members;
- potential liabilities;
- extent of any insurance cover for members.

Having checked the above, councillors should consider carefully whether they are willing to should be appointed to participate formally in the management of the external organisation e.g. as a director, trustee or voting member, or whether their role as a representative of the Council may be more effectively discharged as a non-voting member with observer status only. Bearing in mind the potential liabilities that may be incurred through formal involvement in an organisation, councillors are generally advised to seek appointment as members with observer status only, unless there are exceptional reasons for more formal participation.

Councillors are encouraged to seek advice from the Monitoring Officer where any of the above issues are unclear.

3. Application of the Code of Conduct for Members

The Council's Code of Conduct for Members at Appendix 11 of the Constitution, places specific obligations on councillors when acting in that capacity in their dealings with outside organisations. The Code will, in particular, apply where a councillor is acting as a representative of the Council on an outside body.

Apart from the general duty to promote and support high standards of conduct, the following duties of the Code are particularly relevant in this context:

- act solely in the public interest and never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate;

- avoid placing yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;
- make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;
- declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and take steps to resolve any conflicts in a way that protects the public interest.
- comply with the statutory requirements on the registration and declaration of interests.

Councillors who have a disclosable pecuniary interest in any business at a meeting of the Council e.g. award of a contract, must not participate in any discussion of the matter or vote on it, unless a dispensation has been obtained. Failure to comply with these requirements without reasonable excuse may result in prosecution.

Councillors who serve on more than one body, in particular, need to be mindful of potential conflicts of interest and always act in an open and transparent manner in carrying out their respective roles. For example, where a councillor is at a council meeting considering an application for a grant or a community asset transfer request from a parish council or other public body of which they are a member, they should declare the existence and nature of their interest. Having done so, they may, generally, take part in the discussion of that item and vote, unless there are particular reasons why this would not be appropriate. It is also advisable as a matter of transparency, to include details of the interest in their register of interests.

The same principle will generally apply where councillors are appointed to serve as school governors, but it is always necessary to have regard to the nature and extent of any conflict of interest in deciding whether to participate or vote. Where the governing body is considering a matter which is likely to have a material effect on the councillor or a member of their family, it would be advisable to declare an interest and take no further part in the proceedings.

Councillors appointed to serve on outside bodies should be mindful of their legal obligations regarding disclosure of confidential information and in case of doubt should seek advice from the Monitoring Officer.

4. Predetermination and Bias

Aside from the Code of Conduct, under common law, councillors must be careful to avoid any pre-determination or bias in their decision-making. Predetermination occurs where someone has a closed mind so that they are unable to apply their judgement fully and properly to the issue requiring a decision. This can lead to legal challenges and decisions being set aside.

The Localism Act 2011 has clarified the rules on predetermination. It makes it clear that a councillor is not deemed to have had a closed mind on an issue just because they have indicated what view they have taken or may take before the issue is decided. A councillor is not, for example, prevented from participating in discussion of an issue, or voting on it, if they have campaigned on the issue or made public statements about their approach to it.

The general position remains however, that, whatever their views, members must approach their decision-making with an open mind in the sense that they must have regard to all material considerations and must be prepared to change their views if persuaded that they should.

Councillors need to be aware that decisions may be challenged and set aside on the grounds of bias. Under common law, bias involves some element of partiality or personal interest in the outcome of a case, as a result of a close connection with the parties, or the subject matter of the dispute, or because of a tendency towards a particular shared point of view.

The relevant test for bias is whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the decision-maker was biased. The risk of a successful challenge on these grounds may be overcome by proper observance of the requirements of the Code of Conduct and particularly the provisions set out above.

5. Legal status, capacity, duties and liabilities

The specific responsibilities of councillors will depend upon the legal status of the outside body and the capacity in which they have been appointed. The position of councillors in relation to various types of outside body, is summarised in the appendices to this note as follows:

- Appendix A - Director of Limited Liability Company
- Appendix B - Trustee of Trust or Charitable Trust
- Appendix C - Member of Unincorporated Association
- Appendix D - Member of Steering Group, Joint Committee or Partnership Body

The key point to note, is that where councillors are carrying out their duties as a trustee, director, or management committee member, they may take account of the wishes of the Council, but their primary duty is to act in the best interests of the organisation to which they have been appointed.

6. Liability, Insurance and Indemnity

Councillors can incur personal civil and criminal liability from formal participation in outside bodies. However, under section 265 of the Public Health Act 1875 (as applied by Section 39, Local Government (Miscellaneous Provisions) Act 1976), councillors enjoy statutory immunity from civil liability where they act within the powers of the authority, in good faith and without negligence.

This immunity does not apply however, where they act beyond the powers of the council or act in bad faith (i.e. with dishonest or malicious intent) or negligently, and it does not protect them from criminal liability, for example for fraud where they exercise managerial responsibilities.

Derbyshire County Council has a wide insurance provision to protect its assets and liabilities. Within these provisions the Council has extended its cover to protect its elected and co-opted members when carrying out duties in connection with the business of the County Council. Those afforded the protection are;

- Elected Members of the Council or co-opted members of any Committee or Sub- Committee.
- members of committees, schemes or associations formed to assist in the activities of the Council.

Further Advice

Further assistance on the issues covered in this guidance may be obtained from the Council's Monitoring Officer.

Version 2:

APPENDIX A

Councillors appointed as Directors of Limited Liability Companies

Legal Status

1. Upon incorporation a company becomes a separate legal entity, which can hold property in its own right, enter into contracts and sue and be sued in its own name.

In the case of a limited liability company the liability of members of the company is limited to the amount they paid or agreed to pay when they joined the company. This can be as little as £1.

2. Companies limited by shares are those which have a share capital e.g. 1000 shares of £1 each. Each member holds shares and receives a share in the profits made by the company according to the value of the shares held. Shares can be sold. Liability in the event of a winding-up is limited to the amount unpaid on the shares held.

3. Companies limited by guarantee do not have shares. Instead, each member agrees that in the event of the company being wound up they will agree to pay an agreed amount e.g. £1. This is most common in the public and voluntary sector, particularly where charitable status is sought.

Directors' Duties

4. The role of a councillor who has been appointed as a director will depend upon the company's Memorandum and Articles of Association (its Constitution). A company's constitution will vest most of its powers in the board of directors and the board will exercise these either directly or through managers appointed by the board. Directors must understand the requirements of the Memorandum and Articles of Association in order to fulfil their responsibilities properly.

5. Directors will need to be aware of the requirements of the "Combined Code on Corporate Governance" to the extent that this has been adopted by the company, including general management of the company, rules on directors' remuneration, internal financial and operational controls and risk management.

6. Directors, as agents of the company, must:

- act in good faith in what they believe to be in the best interests of the company as a whole (not the Council);
- act with reasonable care, diligence and skill;

- exercise their powers reasonably and for the purpose for which they are given;
keep an open mind when making decisions on company business; in particular a councillor director must exercise independent judgment and not simply follow Council policy when voting on company matters;
- avoid placing themselves in a position where their private interests or their position as a councillor conflict with their duties to the company;
- be aware of the company's financial position through attendance at board meetings and reading the accounts, agendas and minutes; it is not sufficient to assume that the other directors are doing a good job.

7. Some directors may be given special responsibilities under the company's constitution, for instance a managing director or finance director. Those with special roles will be expected to have the personal and technical skills to perform the duties associated with that role, which may be onerous.

8. The above duties apply to non-executive directors as well as executive directors.

9. There are other statutory requirements which may be relevant depending on the company's business. Directors will need to be familiar with these. For example, if the company is an investment vehicle which engages in fundraising activity, financial services legislation will apply.

Observer status

10. The position of observer has no specific legal status in company or local authority law. Any person appointed as an observer should ensure that their role is clearly defined and avoid involvement in the management of the Company. If an observer acts beyond their remit and exercises real influence over the company's affairs and decision making the observer may be deemed to be a shadow director, with all the duties of an ordinary director.

11. Observers and others, such as professional advisors, may attend board meetings. Generally the minutes of the meetings will note the names of observers and the fact that they are "in attendance". Persons "in attendance" have no specific legal status and in itself the phrase does not indicate any particular level of participation in the company's affairs. The extent of the participation of a councillor described in board minutes as "in attendance" is a question of fact. They should, however, take care to avoid involvement in the

management of the company so as to avoid being treated as a shadow director.

12. A director (or shadow director) may incur personal liability if they are in breach of the above duties. This may arise where:

- the company is found, in the course of winding up, to have been trading for fraudulent purposes. If a director has acted dishonestly this is also a criminal offence;
- following liquidation, a director is found liable for wrongful trading, i.e. allowing the Company to continue to trade at a time when the director knew or ought reasonably to have known that there was no reasonable prospect that the company would avoid going into insolvent liquidation;
- the company commits a breach of the criminal law, for example, health and safety legislation;
- a director acts negligently or in breach of their duty to the company (including the duty to maintain confidential any confidential information relating to the company that comes into their possession).
- a director knowingly causes the company to act beyond the activities authorised by its Memorandum of Association;
- there is a breach of trust, such as the misappropriation of company funds or property;
- a director uses their powers improperly or makes a personal profit from their position as director.
- there is a failure to comply with the requirements of companies legislation, such as the making of returns to the Registrar of Companies.

Insurance

13. Councillors appointed as directors should find out if the company maintains appropriate insurance cover against directors' liability. If this is not in place this should be requested, but this is a matter entirely for the board and the Council cannot insist upon this. It will be necessary to ensure that the company has the resources to maintain payment of the insurance premiums.

14. Further guidance on the responsibilities of company directors is available on the websites of the Institute of Directors and Companies House:

<https://www.iod.com/Home>
<http://www.companieshouse.gov.uk>

APPENDIX B

Appointment of a Trustee to a Trust or Charity

Legal Status

1. Trustees will be appointed under a Trust Deed. The role and responsibilities of a trustee will depend, therefore, upon the provisions of the trust deed and/or scheme (collectively referred to as its “governing documents”) and the general law relating to trusts and charities.

2. It is quite common for companies to be set up as trusts with charitable objects. In this case the trustees will also be directors of the company and will have the obligations set out in Appendix C above as well as the obligations set out in this section. Councillors involved with charitable companies should ensure that they understand the capacity in which they have been appointed.

Duties

3. The role of a trustee is generally to fulfil the objects of the trust and apply the income and, if appropriate, the capital of the trust in accordance with the provisions of its governing documents.

4. Trustees are subject to various duties, including the duty to:

- act for the benefit of the charity and its beneficiaries;
- preserve the capital of the charity (unless the trust deed gives the trustees the right to spend the capital or the charity is small and the trustees have resolved to spend the capital under the Charities Act 1993);
- make sure income is spent only on the things authorised in the governing documents;
- invest the capital only in authorised investments, having first taken professional advice;
- produce annual accounts;
- act with reasonable care and skill in administering the trust; and to act unanimously (unless the trust deed allows majority decisions).
- comply with the Charities Acts and other legislation affecting the charity.

5. The Charity Commission’s website - www.charitycommission.gov.uk – contains useful guidance, in particular Publication CC3 - “Responsibilities of Charity Trustees” which outlines the basic principles that should guide trustees when administering their charity:

- the income and property of the charity must be applied for the purposes set out in the governing document and for no other purposes;
- the trustees must act reasonably and prudently in all matters relating to the charity and must always bear in mind the interests of the charity. They should not let their personal views or prejudice affect their conduct as trustees;
- trustees should exercise the same degree of care in dealing with the administration of their charity as a prudent businessman would exercise in managing his or her own affairs or those of somebody else for whom he or she was responsible; and where trustees are required to make a decision which affects a personal interest of one of their members that person should not be present at any discussion or vote on the matter.

Liability

6. Trustees are jointly and severally liable to the charity for breaches of trust. They may incur personal liability for losses incurred if they:

- act outside the scope of the trust deed;
- fall below the required standard of care;
- make a personal profit from the trust assets;

7. Trustees will incur personal liabilities under contracts they enter into in the name of the charity. They are, however, entitled to be reimbursed from the charity's funds for all liabilities and expenses properly incurred by them, provided this is authorised by the trustees in accordance with the trust deed.

Insurance and Indemnity

8. An indemnity can be given from the trust fund provided the trustee has acted properly and within their powers. Trustees may take out insurance to protect themselves against personal liability except criminal liability. Payment of the premiums must be authorised by the trust deed if they are to be met from charitable funds.

APPENDIX C

Unincorporated Associations

Legal Status

1. Most societies, clubs and similar organisations (other than companies, industrial societies and trusts), are unincorporated associations. This is an informal organisation, which may arise where several people join together, with the intention of creating legal relations, to carry out a mutual purpose otherwise than for profit.
2. There is no statutory definition of an unincorporated association but it has been described by the court as “an association of persons bound together by identifiable rules and having an identifiable membership”. Unlike a company it does not have a separate legal status distinct from its members.
3. The rules of an unincorporated association are found in its constitution, which sets out the roles and responsibilities of its members.

Duties

4. An unincorporated association will typically have an executive or management committee with its powers and composition defined by the constitution. Key decisions will usually be made by the members at general meetings. The day to day administration of an association is usually undertaken by the officers and members of the executive or management committee.
5. Broadly executive or management committee members must act within the constitution and must take reasonable care in exercising their powers.
6. Where an unincorporated association is a registered charity the members of the executive or management committee may also be charity trustees. As such, their role and responsibilities will be determined not only by the association’s constitution but also by the general law relating to trusts and charities, as set out.

Observer Status

7. The Council may appoint a councillor to the executive or management committee of an unincorporated association as an observer. A councillor acting as an observer should avoid exceeding this role by becoming directly involved in the management of the association as they may be deemed to be an ordinary member for the purposes of determining liability.

Liabilities

8. Members of the management committee are generally liable, jointly and severally, for the acts of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are insufficient funds the members are personally liable for the shortfall.

9. Particular care should also be taken when entering into contracts on behalf of the association. If the individual lacks the authority to do so, they may find themselves personally liable for the performance of the contract.

Insurance

10. Insurance may be available, but payment of the premiums must be authorised by the constitution if they are to be met from the association's funds.

APPENDIX D

Steering Groups, Joint Committees and Partnership Bodies, including Community Area Partnerships

1. The responsibilities of a councillor who is appointed as a member of any of these bodies will be determined by the terms of reference, constitution or partnership agreement under which they are established and governed.
2. It is necessary to ensure that the councillor's role on the body is clear, and, in particular, whether they are acting as a delegate or representative of the Council to further the interests of the Council, or whether they are expected to exercise independent judgment in the best interests of the body concerned.
3. Liability will depend on the nature and functions of the body and the constitution or agreement under which it is established. Insurance may be available to cover certain liability.

Appendix 20 - Code of Good Planning Practice

Introduction

Town and Country Planning is a sensitive area of Local Government work where considerable economic returns and social and environmental consequences both positive and negative can hinge on single planning decisions. Whilst development plan making is an Executive function for the Council, all decisions on planning applications are required by law to be made outside the executive decision making framework, as part of the Council's 'regulatory' functions.

This Code of Good Practice sets out the behaviour and practices the County Council expects should be observed in deciding applications made for planning permission and for associated planning approvals. It includes the normal process for those applications which are reported to the Council's Regulatory Planning Committee, so that the Council's expectations and practices for both Members and Council Officers can be clear to all. These determinations can often be highly controversial. This Code of Practice is designed to be fair both to applicants and to other people to ensure that the Council makes impartial decisions in the interests of the community at large.

1. Basic Principles

- 1.1 The basis of the planning system is the consideration of development proposals in the context of the wider public interest.
- 1.2 The successful operation of the planning system relies on ensuring that officers and Members act in a way which is not only fair but is clearly seen to be so.
- 1.3 For the purpose of this Code of Practice, unless the particular context dictates otherwise:- “Committee” refers to the Regulatory Planning Committee of the County Council, “Members” refers to the current elected members of the County Council, “Substitute Members” refers to any Members acting by substitution arrangement at specific Committee meetings as members of the Committee in place of members duly appointed as members of the Committee, “Committee Members” refers to the Members duly appointed as members of the Committee together with any relevant Substitute Members, and “Local Member” refers to any Member who is the member representing a County Council ward which is affected by a development proposal under a current planning application to the Council.
- 1.4 The Derbyshire County Council Code of Conduct for Members (“The Members Code of Conduct”) which is contained in Part 5 of the Constitution governs both declarations of interest and expected behaviour by Councillors generally. It must be followed scrupulously for planning applications coming before the Regulatory Planning Committee just as it must be for other items. All Councillors should review their disclosable interests regularly, and it is particularly important for Committee Members to do this.
- 1.5 Members have a responsibility for representing the communities in their constituencies as Local Members, but also an overriding duty to the wider community. They should act in the general public interest in relation to planning matters. There is no reason in principle why Local Members for particular planning applications who are also Committee Members should not participate in the Committee decision making process for those applications, provided they comply with this Code and the Members’ Code of Conduct.
- 1.6 Planning applications submitted by the County Council for its own development will be treated in the same way as those by others in terms of the assessment of the proposal in relation to the policies of the development plan and other material planning considerations.
- 1.7 Should an application be submitted to the Council by or on behalf of:
 - (i) any Members or officers involved in the planning process,

- (ii) a spouse or civil partner of such an officer or Member;
- (iii) a person with whom such an officer or Member is living as husband or wife or as civil partner or
- (iv) any other person with whom such an officer or Member has a close association

the Member or officer concerned will, as soon as reasonably practicable following either the submission of the application or subsequently first becoming aware of the application and connection with it, inform both the Head of Planning and the Council's Monitoring Officer and take no part in processing or determining the application.

- 1.8 A scheme of delegation to officers is set out in Part 3 of the Derbyshire County Council Constitution. It enables most planning applications and associated submissions to be determined by the Head of Planning Services, (following consultation with the Chair of the Committee if the matter raises policy or political issues). In practice therefore the applications which need Committee decisions will quite often be controversial, and tend to involve many interrelated relevant considerations (known as "material considerations"). The normal role of the Committee Members deciding on any application before it is to reach a collective decision in which each consideration plays some part (according to whatever 'strength' or 'weight' the members may find it should be given). In practice this often means an overall balancing exercise between competing issues of harm and benefit, guided by relevant planning policies.
- 1.9 The role of the Head of Planning Services and planning case officers in producing any report on an application for a Committee decision is to provide the Committee Members with sufficient professional and impartial advice and information and assistance to enable them to make a well informed and reasoned decision on the application which is in the public interest. They will therefore ensure that all the necessary information for a decision to be made is provided together with a clear and accurate analysis on the relevant issues including the Development Plan policies and other material considerations. All reports to Members will contain a clear recommendation which will reflect the reasoning and conclusions under the analysis. A recommendation for approval is almost always on the basis that permission would be granted subject to a set of conditions, to keep the impacts on amenity arising from the development within acceptable limits.
- 1.10 The County Council endorses the Royal Town Planning Institute (RTPI) Code of Conduct and in particular that RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions. All officers in the Authority attending to planning

matters are expected to act in accordance with the RTPI Code of Practice whether or not they are RTPI members. Members of the Council should respect those professional responsibilities at all times.

1.11 Committee Members may raise with the relevant officers any points which they consider to be of relevance to the determination of a planning matter which the County Council is to determine. However, Members should not otherwise seek to influence officers either towards or against any potential officer recommendations on planning matters.

1.12 Members should not seek from officers, and officers will not normally provide, any opinion on the acceptability or otherwise of an application which might be decided on by the Committee prior to publication of a full report containing an officer recommendation

2 Training

2.1 Training sessions relating to the role of the Committee and its membership will be provided for all Members of the County Council on a yearly basis. All Committee Members (including all members eligible to serve as Substitute Members), are expected to attend these sessions to enhance their understanding of the role as members of the Committee and/or to bring it up to date including of the Committee and Members wishing to be or remain able serve at meetings of the Committee from time to time as substitute members.

2.2 All Committee Members (including substitute members) shall before serving on the Committee have received introductory training in planning principles provided by, or to the satisfaction of, the Head of Planning Services in consultation with the Director of Legal Services, prior to serving on the Committee. Such training is generally provided for Members following a County Council election but may be arranged as necessary at other times on a bespoke basis.

2.3 Any Committee Members who have not received introductory training in the principles of planning as referred to at 2.2 above shall not participate as members on the Committee until they have received such training.

3 Availability of Information relating to Planning Applications

3.1 All planning applications receive publicity in accordance with legal requirements and the Council's current practices, which vary depending on the type of application and its likely impact. All publicity by the Council relating to planning applications will include clear information on how to make representations on them to the County Council

3.2 Whilst the Council will endeavour where practicable to have regard to all written representations, there is no guarantee that those received after

end of the publicised period for representations will be taken into account. It will not generally be practicable for the Committee to be advised of the relevance of late representations submitted later than three working days before the Committee meeting.

- 3.3 Local Members will be informed of planning applications that fall to be determined by the County Council as soon as practicable following receipt of the application.
 - 3.4 Copies of all current planning applications, subsequent amendments, relevant correspondence from consultees, planning decisions, conditions or reasons for refusal and Section 106 Agreements will be made available for public inspection on the Council's website, and at County Hall, Matlock during office hours.
- 4 Lobbying, Impartiality, and Predetermination
 - 4.1 Committee Members shall avoid expressing an opinion which may indicate having reached a conclusion or otherwise appearing to commit the Authority on a planning application until the item is before the Committee for a decision with all the relevant information, evidence and arguments put before it in a report by the Head of Planning Services.
 - 4.2 Committee Members are not prevented from participating as normal in the Committee decision making just because an application affects land in the local area they represent as a Councillor (whether as Local member or at District or Parish level). However they cannot participate as Committee Members where, due to any local connection(s) they may have with the application, this would result in any conflict with any provisions of either this Code of Practice or the Members Code of Conduct.
 - 4.3 Where they feel it is appropriate to do so, Committee Members may express an inclination or predisposition towards a particular body of opinion about an application in advance of the Committee, provided they keep an open mind regarding the application. Committee Members should in all statements of this kind also state clearly that they will not reach a final view on the proposal before all the relevant information, evidence and arguments are put before the Committee. The Localism Act 2011 has confirmed that making such a statement is not in itself evidence of any predetermination. Relevant guidance is contained in the Local Government Association and Planning Advisory Service guidance note "Probity in planning for councillors and officers", April 2013.
 - 4.4 Any Committee Members who reach or express a final view on a planning application prior to the Committee meeting at which a decision is to be taken will declare this if they attend the meeting, and will be

precluded from participating in the consideration and decision by the Committee on the application (see 4.1). A member in this position must withdraw from the meeting room for that particular item, unless they are also a Local Member in relation to the application in which case they may speak before the Committee at the appropriate time during the item as the local ward member, before leaving the room for the remainder of that item.

- 4.5 Committee Members will not organise support for or opposition to a proposal, or lobby other Committee Members to support or oppose a proposal (other than when addressing the Committee).
- 4.6 Letters and emails received by Members which provide information pertinent to an application received by the Council and/or are intended for consideration in the determination of the application should be passed on to the Head of Planning Services so that they can be considered in the processing of the proposal and the drafting of a report to the Committee.
- 4.7 Committee Members can expect to be approached and lobbied from time to time on development proposals by applicants and by opponents and supporters (by post, telephone, e-mail, face-to-face contact and/or other means). Whilst this is not normally a cause for concern, any Member who is subject to significant lobbying in respect of an application should briefly record the circumstances and content of such lobbying and inform the Head of Planning Services accordingly by e-mail or letter.
- 4.8 The practice and procedure in this Code of Practice is designed to accord with and complement the Members' Code of Conduct. However whenever Members perceive any incompatibility between the respective codes they should continue to adhere to compliance with the contents of the Members' Code of Conduct, whilst requesting guidance from the Director of Legal Services on the apparent incompatibility.
- 4.9 It is particularly important in the context of planning applications, that Members follow scrupulously the Members' Code of Conduct in respect of hospitality, gifts, and declarations and registers of interests. Members should always take care to avoid placing themselves in a position that could lead to the public thinking they are seeking preferential treatment for themselves, or biased towards their friends or relatives or any firm or body with which they are personally connected.
- 4.10 At each meeting of the Committee prior to the consideration of the Report of the Head of Planning Services on the agenda, any Committee Members who have been subject to significant lobbying on any one or

more of the applications referred to the Committee under the Report should declare this for each of those relevant applications.

5 Discussions Prior to Determination

- 5.1 Pre-application meetings between potential applicants and local planning authorities have become widely recognised as a useful opportunity for productive discussion prior to application proposals being finalised. These meetings, are encouraged by the County Council, but to avoid them being misunderstood they are generally held at officer level without Member attendance. It is always made clear at the outset of such meetings that the discussions will not bind the Council to making a particular decision.
- 5.2 For major applications for proposed developments, the Head of Planning will invite potential applicants to make “pre-application” presentations before Committee Members, which all committee members and members able to act as substitutes would be invited and encouraged to attend. These presentations will generally be arranged before the formal submission of an application for planning permission, to enable members to become engaged with the proposals from a relatively early stage by both being informed about them by the applicant and having an opportunity to raise any particular relevant issues affecting the proposals directly with applicant representatives.
- 5.3 To avoid any misunderstanding of their position or any appearance of predetermination, Members should take care that in any discussions or conversations they may have, they avoid expressing any overall opinions for or against any development proposals and should not enter into any debate over their acceptability.
- 5.4 So long as they keep within the parameters of this code, Members of the Committee are free to discuss planning applications which have yet to be considered by the Committee with other committee members and other members who are not on the Committee, including at meetings of the political party groups.
- 5.5 However, no Members or political groups should direct whip or instruct any Committee Members, or put them under any coercion potential sanction or other disincentive or incentive, regarding their voting on any applications in Committee. Such activities in respect of any Committee Members would be seeking to influence decisions of the Committee in a way that would undermine the integrity of the planning decision process, and would also be liable to be in contravention of the Members’ Code of Conduct.

- 5.6 Committee Members must not under any circumstances allow their own planning judgements on any application before the Committee to be influenced by any points raised in any discussions that they would not be prepared to refer to as a material consideration during any debate on the application in Committee.
- 5.7 Committee Members are encouraged to contact the Head of Planning Services before attending or agreeing to attend any meetings about development proposals which may be arranged by anyone outside the Council (e.g. applicants objectors or lobbying groups) This may enable appropriate guidance (taking into account the nature of the proposal and the meeting arrangement) to be given to the Committee Members, to help them avoid compromising or appearing to compromise their impartiality in relation to the proposals. It may occasionally be inadvisable for Committee Members to attend a particular meeting. In other cases it may be considered helpful for the meetings also to be attended by appropriate officers and for notes to be taken. It might also be appropriate for Committee Members attending such meetings, to make it clear from the start of the meeting that they are there to become better informed about any relevant issues relating to the proposal rather than to offer any views on its acceptability. .

6 Declarations of Interest

- 6.1 The relevant requirements relating to declarations of interests under the Members' Code of Conduct apply to Members attending meetings of the Regulatory Planning Committee as well as other Committees of the Council. They apply to a Councillor who is not a Member of the Committee but who attends a meeting, as well as to Members and substitute Members serving of the Committee. The provisions of the Members' Code of Practice are contained in Appendix 12 to the Constitution
- 6.2 As explained in section 4 above, any member serving on the Committee who reaches or expresses a final view on a planning application prior to the Committee meeting at which a decision is to be taken must not participate as a Committee member for that item as must normally withdraw from the meeting room for that particular agenda item.
- 6.3 A Committee Member who is also an elected member of a District, Parish or Town Council which has expressed a view on an application which is before the Committee is likely to be regarded as having a non-pecuniary interest, which is to be declared as provided by the Members' Code of Conduct. This does not by itself disqualify a Committee Member from participating in the Committee debate and decision on that application

(due to bias or pre-determination) provided that the Member retains an impartial view.

- 6.4 The Director of Legal Services, as the County Council's Monitoring Officer, will give advice on whether an interest should be declared and/or the nature of the interest to be declared, in cases of any doubt. Members are welcome to request such advice initially as soon as they become aware of a potential source of interest they are unsure about.

7 Site Visits

- 7.1 Site visits in relation to any current applications for planning permission may be held with the aim of assisting members to acquire a clear understanding of the nature of the development proposed, its location, and potential impact.
- 7.2 The Head of Planning Services, in consultation with the Chair (or Vice Chair in his absence), normally determines whether a site visit should be arranged for an application, on the basis of:
- the nature of the proposal, its location, its potential impact and any additional information which committee would gain from a site visit;
 - the representations which have been received;
 - the proposed recommendation of the Head of Planning on the Application (applications recommended for refusal would normally be subject to site visit);
 - any request made by a Local Member in response to consultation;
 - whether the aim could be met by other means, e.g. an officer presenting a visual projection of plans and images of the site during the Committee meeting
- 7.3 Normally any site visit would, if practicable, be arranged to take place on the day of the Committee meeting to consider the application. The following would normally be notified of any site visit that is arranged:
- Applicant(s)
 - District/Borough Council(s)
 - Parish Council(s)
 - Local Member(s)
 - Those members of the public and others who have made making representations in writing to the Council in support or in objection ("those making representations")
- 7.4 In line with the aim of the site visit, those present would normally speak on the invitation of the Chair, and only to address as points of clarification on observable features relating to the subject matter of the application

and/or any representations that have been received about it. As far as practicable, those who have made representations will normally be invited to point out any significant geographical or other physical features that relate to their representations.

8 The Committee Decision Process

- 8.1 .When the application is included on a Committee agenda as an item to be determined by the Committee (normally five working days before the next meeting), applicants, district/borough councils, parish councils, Local Member(s) and others who have made representations on the application are notified by the Planning Service of (1) the Committee meeting arrangements and (2) the nature of the relevant officer recommendation, and asked to inform the Planning Service no later than the two working days before the meeting if they wish to speak (for up to 3 minutes each) on their representations at the Committee meeting or to send a representative to do so. Those who are to make speeches are encouraged to arrive no later than 15 minutes before the meeting session to assist identification of speakers and briefing by the Democratic Services Officer for the meeting.
- 8.2 All applications referred to Committee for determination will have a full written report from the Strategic Director including a reasoned assessment of the proposal and a justified recommendation.
- 8.3 Where an application is recommended for refusal the reasons for that will be expressed fully in the officer's report.
- 8.4 Items for which there are speakers to be heard at the Committee may be brought forward from the order of items in the agenda by the Chair.
- 8.5 An officer representing the Head of Planning Services outlines the proposal and main issues together with any updating of the report. Members of the Committee are then able to ask any questions of the officer.
- 8.6 The Chair then invites each person who is attending to speak before the Committee with regard to representations on the application, to speak in the following order:
 - Local Member
 - District/Borough Council
 - Parish Council
 - Action Groups or other organisations
 - Individual objectors
 - Applicants
 - Supporters

- 8.7 As far as practicable each speaker is allowed up to 3 minutes speaking time.**
- 8.8 The speakers are not permitted to speak beyond three minutes or to enter into debate with members or officers.
- 8.9 Following each speech Members of the Committee may ask the officer any questions about any matters arising from that representation. The officers shall then endeavour to respond immediately to such questions as far as is practicable.
- 8.10 Following the completion of these representations and any questions and officers' responses arising from them, the officers may then provide any further comments or information about the matter as they may consider appropriate in the light of such representations, questions and responses.
- 8.11 The application will then be open to any debate between Members of the Committee.
- 8.12 Members of the Committee are generally free to propose motions and vote as they consider appropriate in the public interest on planning matters, provided this is having regard only to relevant planning considerations ("material considerations"), which would include the officer recommendation
- 8.13 Immediately prior to any motion being voted on for a final determination of any matter before the Committee, the Chair shall ask the officer to indicate whether or not he/she considers that further consideration of the matter in Committee should be deferred to a subsequent meeting (this may be considered to be advisable or necessary if new points of material relevance to the matter have become apparent at the meeting, to allow further investigated or examination in relation to such points).
- 8.14 Subject to any identification by the officers of a matter being suitable for deferral as provided for above, the Committee shall normally proceed to consider and to seek to determine the matter at the same meeting.
- 8.15 The Committee through the Chair may request clarification from officers on any relevant planning or legal issues relating to the matter at any time prior to a motion being voted on.

- 8.16 The Chair shall have full discretion (both in advance of and during the meeting but, as far as practicable, following consultation with the Director of Legal Services or his legal officer attending the meeting) to prescribe for any particular matter any changes to the usual participation procedure described above as may appear to the Chair to be necessary at any time for the fair or effective conduct of the business of the meeting,.

Decisions contrary to officer recommendation

- 8.17 From time to time the majority of Committee Members present may disagree with the professional officer recommendation. Any decisions on planning applications which are contrary to officer recommendations must be supported by a clear statement of the reasons for such a decision, for recording in the minutes of the meeting and any decision notice of refusal also requires a full statement of reasons
- 8.18 Therefore in practice, when it becomes clear during a Committee meeting that there is a significant body of opinion amongst the Committee Members present which would support a decision contrary to the officer recommendation, it may be necessary for the Committee to have an adjournment. This could involve just a short adjournment within the meeting session, or a deferral to a further committee session or meeting, depending on how quickly the Committee Members intending to propose and second such a motion are able to produce a suitably worded motion which includes a sufficient statement of reasons for taking such a decision

9. Monitoring Quality of Development

- 9.1 There will be two tours of inspection arranged each year to enable Committee Members to observe the quality of development under planning permissions granted. This will include waste management facilities, working mineral operations and the County Council's own development. These site visits will be agreed with the Chair of the Committee in advance.
- 9.2 For each site visited for observation purposes a briefing note will be prepared and any necessary permission to gain access to private land will be obtained.

10. Conditions and Planning Obligations

10.1 Officers may in advance of the production of reports to Committee on applications negotiate with the applicants and/or land owners terms to provide for draft agreements with Planning Obligations and / or draft planning conditions associated with the planning applications, in the event that the Committee decision is to approve grant of permission subject to conditions and/or completion of agreements to provide Planning Obligations.

10.2 Reports on applications to the Committee will whenever practicable include any Heads of Terms for any Planning Obligations and draft conditions which may be recommended in connection with the determination of the applications.

10.3 Copies of concluded decision notices and Legal Agreements will be available for public inspection both at County Hall and in conjunction with the statutory planning registers except to the extent that public access to any information content is restricted or prevented by Data Protection law.

10.4 Officer recommendations for resolutions to approve grants of planning permission that include requirements for Planning Obligations to be provided in advance of permission being granted will be restricted to matters that are sufficiently relevant to the planning application, according to prevailing case law.

11 Feedback and Complaints

11.1 Any suggestions or concerns arising from this Code of Practice can be raised with the Director of Legal Services or the Head of Planning Services. The Council also has a formal complaints system in operation which can be used if necessary and enquiries should be addressed to the Director of Legal Services.

Appendix 21 – Protocol for the use of IT/Use of Resources

To be confirmed.

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