

**PART 4**

**RULES OF PROCEDURE**



# **RULES OF PROCEDURE**

## **1. COUNCIL PROCEDURE RULES**

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## **PART 4 RULES OF PROCEDURE**

### **1. COUNCIL PROCEDURE RULES**

These Procedure Rules are Standing Orders made under S135 Local Government Act 1972.

#### **1. ANNUAL MEETING OF THE COUNCIL**

##### **1.1 Timing and business**

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- (i) elect a person to preside if the Chair is not present;
- (ii) elect the Chair of Council;
- (iii) elect the Vice Chair of Council;
- (iv) receive declarations from Members of interests in the matters to be considered at the meeting;
- (v) approve the minutes of the last meeting;
- (vi) receive any announcements from the Chair, Mayor and/or Chief Executive (limited to a maximum of 3 minutes per person, except in exceptional circumstances which will be at the discretion of the Chair);
- (vii) appoint at least one Overview and Scrutiny Committee and such other Committees as the Council considers appropriate to deal with matters which are not reserved to full Council nor are Executive functions (as set out in Part 3, Table 1 of this Constitution);
- (viii) be told by the Mayor about the composition and Constitution of the Executive for the coming year, and the names of Councillors he/she has chosen to be Members of the Executive;
- (ix) be told by the Mayor about the Executive Scheme of Delegations (as set out in Part 3.7 of this Constitution);
- (x) approve a programme of ordinary meetings of the Council for the year; and
- (xi) consider any business set out in the notice convening the meeting.

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

At the annual meeting, the Council meeting will:

- (i) decide which Committees to establish for the municipal year;
- (ii) decide the size and terms of reference for those Committees;
- (iii) decide the allocation of seats and any substitutes to Political Groups in accordance with the political balance rules;
- (iv) receive nominations of Councillors to serve on each Committee and outside body where appointments to those bodies is reserved to full Council; and
- (v) appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive.

#### **2. ORDINARY MEETINGS**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (i) elect a person to preside if the Chair and Vice-Chair are not present;
- (ii) receive apologies;
- (iii) consider the extent to which the public and press may be excluded from the meeting;
- (iv) receive declarations by Members of interest in the matters to be considered at the meeting;
- (v) approve as a correct record the minutes of the last meeting;
- (vi) receive any announcements from the Chair, the Mayor, Members of the Cabinet or the Chief Executive (limited to a maximum of 3 minutes per person, except in exceptional circumstances which will be at the discretion of the Chair);
- (vii) receive any reports relating to Statutory Plans and/or major policy initiatives;

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- (viii) consider motions of which notice has been submitted by Members of the Council in accordance with Rule 15 in the order in which they are recorded as having been received.
- (ix) receive any reports from the Executive, Overview and Scrutiny and the Council's Committees and receive questions and answers on any of those reports;
- (x) receive questions to the Elected Mayor, Cabinet Members and/or the Chair of a relevant Regulatory Committee from, and provide answers to, the public further to Rule 13;
- (xi) receive questions to the Elected Mayor, Cabinet Members and/or the Chair of the Overview and Scrutiny Management Committee from, and provide answers to, Members further to Rule 15.2;
- (xii) receive the minutes, reports about and questions and answers on the business of Joint Authorities, Joint Arrangements and external organisations;
- (xiii) consider any other business specified in the summons to the meeting, including the debating of any petition containing more than 10,000 signatures (and presentation of other petitions falling below this threshold from Members of the Council and/or members of the public) and receiving deputations from the public.

### **3. EXTRAORDINARY MEETINGS**

#### **3.1 Calling Extraordinary Meetings**

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings

- (i) the Council by resolution;
- (ii) the Chair of the Council;
- (iii) the Monitoring Officer, Chief Financial Officer or Chief Executive;
- (iv) any five Members of the Council if they have signed a requisition for such a meeting and presented it to the Chair of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition;

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- (v) any requisition under 3.1(iv) may be presented to the Chair by being left for him/her with the Chief Executive;
- (vi) where it is decided to call an extraordinary meeting of the Council under (ii) or (iv) above, the Members calling the meeting shall tell the Chief Executive they have done so, the business to be transacted and the date and time for which the meeting is called. The Chief Executive shall then ensure that the necessary notices and summonses are published and sent.

### **3.2 Business**

The business that may be conducted at an extraordinary meeting shall be restricted to consideration of the business to be transacted specified by the Council, individual or Members further to Rule 3.1 above and such other business as agreed by the Chair and being specified in the summons to the meeting.

### **4. ORDER OF BUSINESS**

The order of business at meetings of the Council may be varied by:

- (i) the Chair, with the consent of the Members present, or
- (ii) a resolution of the Council, moved, seconded and put without comment,

but the order of business of items 1.1(i)-(v) and 2(i)-(v) shall not be varied.

### **5. URGENT ITEMS**

If the Chair decides that an item of business not included in the agenda for the meeting sent with the summons may be taken for reasons of urgency (which must be specified) that item shall, subject to any decision under Rule 4 be taken at the end of the other items of business.



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#### **6. APPOINTMENT OF SUBSTITUTE MEMBERS**

##### **6.1 Allocation**

As well as allocating seats on Committees and Sub-Committees, the Council will allocate seats in the same manner for substitute Members to attend the Employee Relations (Disputes Resolution) Committee, the Chief Officers Appointments Committee and the Chief Officer Appeals Committee.

##### **6.2 Number**

For the Committees specified in 6.1 above, the Council will appoint the same number of substitutes in respect of each Political Group as that group holds ordinary seats on that Committee or Sub-Committee.

##### **6.3 Powers and duties**

Substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not (if being a substitute for the Chair or Vice-Chair of the Committee or Sub-Committee) preside at the meeting unless appointed as Chair at any particular meeting.

##### **6.4 Substitution**

Substitute Members may attend meetings in that capacity only:

- (i) to take the place of the ordinary Member for whom they are the designated substitute;
- (ii) where the ordinary Member will be absent for the whole of the meeting; and
- (iii) after notification in writing has been received by the Chief Executive by no later than 12.00 noon on the working day prior to the date of the meeting of the intended substitution.

The notification must state the name of the Committee or Sub-Committee Member who will be absent, the name of the substitute Member, the date of the meeting (or such longer period during which the substitution shall have effect) and be signed by the Committee or Sub-Committee Member or the relevant group leader.

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#### **7. REVISIONS TO COMMITTEE MEMBERSHIPS**

- 7.1 Group Leaders may change their Group representation on Committees and Sub-Committees by giving written notice to the Monitoring Officer. Such notification will take effect from the date of receipt by the Monitoring Officer unless the notice specifies a later date. Such notifications will be reported to the next appropriate meeting of Council.

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

- 8.1 All meetings of the Council shall be held at the Civic Office, Waterdale, Doncaster, DN1 3BU unless the Chief Executive decides that it would be appropriate that a meeting of the Council be held at another place in the Borough. In considering other venues the Chief Executive shall have regard to ease of access by the public including people with a disability and the provision of public transport.
- 8.2 The time of meetings will be determined by the Chief Executive and notified in the summons.

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

- 9.1 The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. The notice shall be published at the Civic Office, Waterdale, Doncaster, DN1 3BU. At least five clear days before a meeting, the Chief Executive will send a summons signed or otherwise authenticated by him or her by post to every Member of the Council or leave it at their usual place of residence (or such other address as has been notified to the Chief Executive). Alternatively, where a Member has given consent for the summons to be transmitted in electronic form to a particular electronic address (and consent has not been withdrawn), the Chief Executive will send the summons in electronic form to that address. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

#### **10. CHAIR OF MEETING**

- 10.1 The person presiding at the meeting may exercise any power or duty of the Chair. Where these rules apply to Committee and Sub-Committee meetings, references to the Chair also include the Chair of Committees and Sub-Committees.
- 10.2 If present at a meeting of the Council the Chair shall preside.
- 10.3 If the Chair is absent from a meeting of the Council the Vice-Chair, if present, shall preside.

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10.4 If both the Chair and Vice-Chair are absent from a meeting of the Council such Member of the Council as shall be chosen by the Members of the Council shall preside.

#### **11. QUORUM**

11.1. The quorum of a meeting will be one quarter of the whole number of Members unless more than one third of the Members become disqualified when the quorum shall be determined in accordance with paragraph 45, Schedule 12 of the Local Government Act 1972.

11.2 The Chair shall be taken at the time specified in the summons calling the meeting and business shall commence as soon as the quorum is present.

11.3 If after the expiration of 15 minutes after the specified time a quorum is not present no meeting shall take place and the business shall be postponed in accordance with 11.6 below.

11.4 During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, the meeting will adjourn immediately for 15 minutes.

11.5 If after 15 minutes, the Chair, after counting the number of Members present declares that there is still no quorum present, the Chair shall declare the meeting is adjourned and the names of those who are present and those who are absent shall be recorded in the minutes of Council.

11.6 If a meeting is adjourned further to 11.5 above, (notwithstanding any provision in these rules that Notices of Questions and Motions shall lapse) remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

#### **12. DURATION OF MEETING**

12.1 Council will normally transact all items of business on the published agenda.

12.2 If a meeting has lasted for 3 hours the Chair shall interrupt the meeting and call for a vote of Members present on whether the meeting shall continue. If Members decide that the meeting shall not continue, the Chair will call for a vote immediately on the item under discussion. The vote will then be taken in the usual way (including the recording of votes) without any further discussion.

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- 12.3 Remaining business will be adjourned to a time and date fixed by the Chair. If he/she does not fix a date the remaining business will be considered at the next ordinary meeting.

#### **QUESTIONS AT COUNCIL MEETINGS**

“Question Time” sessions for public questions under Rule 13 (lasting for a maximum of 30 minutes in total) and for Member questions under Rules 15.2, 15.3 and 15.8 (maximum of 60 minutes in total) shall be held at ordinary meetings of the Council.

#### **13. QUESTIONS BY THE PUBLIC**

##### **13.1 General**

Members of the public i.e. people who are residents of the Borough may ask questions of Members of the Executive and/or the Chair of a relevant Regulatory Committee if the question concerns a regulatory matter, e.g. Planning and Licensing.

##### **13.2 Order of questions**

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

##### **13.3 Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than midday of the 7th working day before the day of the meeting. Each question must give the name and address of the questioner and must name the Member of the Council to whom it is to be put.

##### **13.4 Number of questions**

At any one meeting no person may submit more than 1 question and no more than 1 such question may be asked on behalf of one organisation.

No person may submit more than 2 questions and no more than 2 questions may be asked on behalf of an organisation in any 6 month period.

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#### **13.5 Scope of Questions**

Questions should be limited to a maximum of 100 words and should relate to Borough wide issues and be relevant to some matter for which the Local Authority has a responsibility or which affects the Borough.

The Chief Executive may reject a question if it:

- is not a matter for which the Local Authority has a responsibility or which affects the Borough;
- 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 6 months; or
- requires the disclosure of confidential or exempt information;
- is submitted by a questioner who is not a resident of the Borough, or;
- relates to an individual planning or licensing application.

#### **13.6 Record of questions**

The Chief Executive will enter each question in a book open to public inspection 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 rejection.

Copies of all questions to be asked will be circulated to all Members and will be made available to the public attending the meeting.

#### **13.7 Considering the question at the meeting**

The Chair will read out the question as it appears upon the agenda. A copy of the intended response from the Mayor, Member of the Executive or relevant Chair of a Regulatory Committee to whom the question is put shall be provided to the questioner at the start of the meeting, to enable them to prepare a supplementary question to ask, if they so wish, with the Chair's permission. If a questioner who has submitted a written question is unable to attend the meeting, a copy of the answer given will be provided to them following the meeting.

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#### **13.8 Oral answers**

An answer to a question may be given by a Member to whom it is addressed or by another Member on his/her behalf and shall be given orally, limited to maximum of 3 minutes, subject to the discretion of the Chair.

#### **13.9 Written answers**

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer provided within 2 weeks of the meeting.

#### **13.10 Supplementary question**

If the Chair permits, a member of the public asking a question under Rule 13.1 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply and shall be put and answered without discussion.

#### **13.11 Reference of question to the Executive or a Committee**

Unless the Chair 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 Executive or the appropriate Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion.

#### **13.12 Record of answers**

Any question asked by a Member of the public together with the answer given, shall be recorded in the minutes of the meeting.

### **14. PETITIONS AND DEPUTATIONS FROM THE PUBLIC**

#### **14.1 Petitions**

Subject to 14.2 at a meeting of the Council a member of the public or any Member may present a petition, signed by 50 or more persons who live, work or study in the Local Authority area (including under 18's), which is relevant to some matter in relation to which the authority has functions, or which affects the area of the authority or part of it, or the inhabitants of the area, or some of them.

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- 14.2 A member of the public or Member wishing to present a petition shall give notice by contacting the Council's Governance Team at least 10 working days before the meeting.
- 14.3 The presentation of a petition by a member of the public or a Member on their behalf shall be limited to no more than 5 minutes and shall be confined to reading out, or summarising the substance of the petition, indicating the number and description of the signatories and making relevant further supporting remarks.
- 14.4 If presented at a meeting of the Council, the petition shall immediately be referred without discussion to the appropriate Executive Member, Committee or Sub-Committee.
- 14.5 In accordance with the Council's Petition Scheme, any petition received by the Council which contains more than 10,000 signatures will be debated by the Full Council. The Council will endeavour to consider the petition at its next ordinary meeting. Petitions received will not be considered at the Annual General Meeting or Extraordinary Council meetings. The petition organiser, or an Elected Member on their behalf, will be given 5 minutes to present the petition at the meeting and 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. The Council 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 Executive 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.
- 14.6 The Chair may agree to receive a petition at other appropriate locations in the Borough. When the Chair agrees to do so, the Ward Councillors for the area in which the person submitting the petition resides, shall be notified and invited to attend.
- 14.7 Following its presentation the petition shall be given to the Chief Executive.

#### **14.8 Deputations by the Public**

##### **14.8.1 General**

Members of the public may request that a deputation should be received by a meeting of the Council or a Committee or Sub-Committee of the Council.

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#### **14.8.2 Notice**

The request shall be made in writing to the Chief Executive at least 10 working days before the meeting. The notice shall indicate the matter to which the deputation relates, the name and address of the 5 people who will form the deputation (who must be local government electors for the area) and which of them will be the spokesperson.

#### **14.8.3 Scope of Deputation**

Deputations should relate to Borough wide issues and be relevant to some matter for which the Local Authority has a responsibility or which affects the Borough.

The Chief Executive may reject a request that a deputation be received if it:

- \* is not a matter for which the Local Authority has a responsibility or which affects the Borough;
- \* may be defamatory, frivolous or offensive
- \* covers substantially the same matter which has been considered at a meeting of the Council in the past 6 months; or
- \* may raise confidential or exempt information.

14.8.4 On being called by the Chair, the spokesperson may speak for not more than 5 minutes on matters relevant to the deputation.

14.8.5 Members of the Council, Committee or Sub-Committee may, during a further period not exceeding 5 minutes ask questions of Members of the deputation. Such questions shall be asked and answered without discussion.

14.8.6 After hearing a deputation to the Council and receiving any answers to questions the matter shall be referred without discussion to the Executive or appropriate Committee or Sub-Committee for consideration, unless the deputation relates to a function specifically reserved to the Council.

14.8.7 Petitions shall be presented and deputations received in the order in which notice of them is received by the Chief Executive, without making any distinction between petitions and deputations.



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#### **15. QUESTIONS BY MEMBERS**

##### **15.1 On reports of the Executive or Committees**

A Member of the Council may ask the Mayor, the relevant Cabinet Member or the Chair of a Committee any question without notice upon an item of the report of the Executive or Committee when that item is being received or is under consideration by the Council.

##### **15.2 To the Elected Mayor, Cabinet Members and Chairs of Overview and Scrutiny Management Committee, Audit Committee, Elections and Democratic Structures Committee and Health and Wellbeing Board - 'Question Time'**

15.2.1 At ordinary meetings of the Council there shall be an opportunity for a Member of the Council to ask the Mayor, the relevant Cabinet Member or the Chairs of the Overview and Scrutiny Management Committee, Audit Committee, Elections and Democratic Structures Committee and Health and Wellbeing Board any question without notice which is relevant to the discharge of their role and responsibilities.

15.2.2 Arrangements for "Question Time" shall be at the discretion of the Chair subject to the following:

- (a) At each ordinary meeting of the full Council there shall be an opportunity for Members to ask questions of the Executive and the Chairs of the Overview and Scrutiny Management Committee, Audit Committee, Elections and Democratic Structures Committee and Health and Wellbeing Board.
- (b) So far as is reasonably practicable, advance notice must be given to Members of the Council which identifies the Cabinet Members to whom questions may be put at any particular ordinary Council meeting.
- (c) A Cabinet Member may nominate another Cabinet Member to receive questions in their absence.
- (d) Each Member shall be allowed a maximum of 2 minutes to ask their question without notice, subject to the discretion of the Chair.
- (e) If the Chair permits, a Member asking a question under Rule 15.2 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply and shall be put and answered without discussion.

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15.2.3 An answer may take the form of:

- (a) a direct oral answer which should be limited to a maximum of 3 minutes, subject to the discretion of the Chair;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated to Members of the Council within 2 weeks of the date of the Council meeting at which it was raised and be available as a public record.

#### **15.3 Questions on notice at full Council**

Subject to Rule 15.5, a Member of the Council may ask:

- the Chair;
- a Member of the Executive;
- the Chair of any Committee or Sub-Committee;
- a Member of the Council appointed to any Joint Authority or Joint Committee or Committee of which the Authority is a constituent authority and is nominated by the Joint Authority or Joint Committee or Committee for that purpose;
- a Member of the Council who is as a result of action taken by or on behalf of the authority a Member or director of any company

a question on any matter in relation to which the Council has powers or duties or which affects the City of Doncaster and such questions shall be limited to a maximum of 100 words.

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#### **15.4 Questions on notice at Committees and Sub-Committees**

Subject to Rule 15.5, a Member of a Committee or Sub-Committee may ask the Chair of it a question on any matter in relation to which the Council has powers or duties or which affect the City of Doncaster and which falls within the terms of reference of that Committee or Sub-Committee.

#### **15.5 Notice of questions**

A Member may only ask a question under Rule 15.3 or 15.4 if either:

- (a) they have given notice by delivering it in writing or by electronic mail to the Chief Executive no later than midday of the 7th working day before the day of the meeting.
- (b) the question relates to urgent matters, they have the consent of the Chair and the content of the question is given to the Chief Executive in writing prior to the start of the meeting.

No Member shall give notice of more than one question for any meeting of the Council. All questions shall be limited to a maximum of 100 words.

#### **15.6 Response**

Every question shall be put and answered without discussion, but the Member to whom it is put may decline to answer it.

A copy of the intended response from the Mayor, Member of the Executive or relevant Chair of a Committee or Sub-Committee to whom the question is put shall be provided to the Member asking the question at the start of the meeting, to enable them to prepare a supplementary question to ask, if they so wish.

If a Member who has submitted a written question is unable to attend the meeting, the Chair will read out the question on the Member's behalf, and a copy of the answer given will be provided to the Member following the meeting.

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An answer may take the form of:

- (a) a direct oral answer which will be limited to a maximum of 3 minutes, subject to the discretion of the Chair;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated to Members of the Council within 2 weeks of the date of the Council meeting at which it was raised and be available as a public record.

#### **15.7 Supplementary question**

If the Chair permits, a Member asking a question under Rule 15.3 or 15.4 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply and shall be put and answered without discussion.

#### **15.8 Questions on notice to Officers**

If a Member of the Council wishes to ask a question of an Officer or other person who is, as a result of action taken by or on behalf of the authority a Member or director of a company he/she shall give notice to the Chief Executive in accordance with 15.5. Unless the Officer refuses to answer, the question shall receive a written answer in the same way as under 15.6(c).

#### **15.9 Record of answers**

Any question asked by a Member under 15.2 or 15.3 together with any answer given shall be summarised and printed in the minutes of the meeting.

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#### **16. MOTIONS ON NOTICE**

##### **16.1 Notice**

Except for motions which can be moved without notice under Rule 17 and urgent motions, written notice of every motion, signed by the mover and seconder, must be delivered to the Chief Executive not later than midday of the 7th working day before the date of the meeting. The Chief Executive shall record the date and time at which every motion is received (including any notice of motion which is not accepted) and enter them in a book open to public inspection.

The Chief Executive shall not accept any notice of motion which, by reason of enactment or law or provision in these Rules (other than below), could not be considered at the meeting for which it is given.

##### **Urgent motion**

The Chair may accept a motion to be considered as a matter of urgency (in which case the reason for urgency shall be specified).

##### **16.2 Motion set out in agenda**

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

##### **16.3 Scope**

Motions must be relevant to matters for which the Council has a responsibility or which affect the area of the authority or part of it, or the inhabitants of the area, or some of them.

##### **16.4 The Chief Executive may reject a motion if it:**

- \* is not a matter for which the Local Authority has a responsibility or which affects the Borough;
- \* is defamatory, frivolous or offensive;
- \* is substantially the same as a motion which has been put at a meeting of the Council in the past 6 months; or
- \* requires the disclosure of confidential or exempt information.

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- 16.5 A motion shall only be moved by the Member who has signed the notice, or by another Member authorised by that Member and notified to the Chief Executive not later than the commencement of the meeting.
- 16.6 Where notice of a motion has been accepted for any meeting of the Council, but is neither moved nor seconded at the meeting, nor referred to any Committee or Sub-Committee the notice shall lapse and the motion shall not be moved without further notice.

#### **16.7 Motions for Budget Council**

Any motion to amend the Executive's Budget proposals will only be permissible if it has been certified by the Chief Financial Officer at least 2 working days prior to the Council's Budget Meeting as being reasonably calculated and sufficiently deliverable as to be robust and sustainable in the medium term and continue to ensure that reserves are maintained at an adequate level which protects the Council's financial standing.

#### **17. MOTIONS WITHOUT NOTICE**

The following motions may be moved and seconded without notice:

- (a) to elect a Chair, Deputy Chair or to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of Committees or Officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;

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- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) that the meeting continue beyond 3 hours in duration;
- (n) to extend the time limit for speeches;
- (o) to suspend a particular Council Procedure Rule or Finance Procedure Rule;
- (p) to exclude the public and press in accordance with the Access to Information Rules;
- (q) to not hear further a Member named under Rule 25.3(i) or to exclude them from the meeting under Rule 25.3(ii);
- (r) to give the consent of the Council where its consent is required by this Constitution;
- (s) to refer a petition which has been presented to the Council or the subject matter of a deputation which has addressed the Council to the Executive or a Committee or Sub-Committee for consideration;

### **18. RULES OF DEBATE**

The rules of debate set out in Council Procedure Rule 18 shall apply to all meetings of the Council and its Committees and Sub-Committees.

If two or more Members offer to speak the Chair shall call one of them to speak at any one time.

#### **18.1 No speeches until Motion seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded (provided that, in a Committee or Sub-Committee of 5 or fewer Members, an amendment shall not need to be seconded).

## **PART 4 RULES OF PROCEDURE**

### **1. COUNCIL PROCEDURE RULES**

#### **18.2 Right to require Motion in writing**

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

#### **18.3 Secunder's Speech**

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

#### **18.4 Length of Speeches**

Except with the consent of the meeting signified without comment, the mover of a motion shall not speak for more than 10 minutes and no other speaker shall speak for more than 5 minutes. A Member who moves an amendment is not moving a motion, and the length of time allotted to the mover of a motion does not include any permitted under a Right of Reply.

#### **18.5 Content of Speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. The Chair shall warn a Member for irrelevance, tedious repetition, failure to address the Chair, unbecoming language or offensive remarks about a Member or Officer. If the Member does not take notice the Chair may order him/her to end his/her speech and may take further action under Council Procedure Rule 25. No Member shall use offensive expressions in reference to any Member or Officer of the Council or any third party.

#### **18.6 When a Member may speak again**

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

- (a) to speak once on an amendment moved by another Member;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;



## **PART 4 RULES OF PROCEDURE**

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- (e) on a point of order; and
- (f) by way of personal explanation.

#### **18.7 Amendments to Motions**

- (a) An amendment to a motion must be seconded and be relevant to the motion. Amendments will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add wordsas long as the effect of (ii) to (iv) is not simply to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion had been disposed of provided that the Chair may permit two or more amendments to be discussed (but not voted on) together if he/she thinks this will benefit the conduct of business.
- (c) An amendment must be voted on before the motion is voted on.
- (d) If an amendment is not carried, other amendments to the original motion may be moved and seconded.
- (e) If an amendment is carried, the motion is amended and takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (f) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, before hearing any further speeches on the substantive motion.

## **PART 4 RULES OF PROCEDURE**

### **1. COUNCIL PROCEDURE RULES**

#### **18.8 Alteration of Motion**

- (a) A Member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder (if still present). The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

#### **18.9 Withdrawal of Motion**

A Member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder (if still present). The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### **18.10 Right of Reply**

A right of reply is confined to answering points raised by previous speakers, new material shall not be introduced.

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

## **PART 4 RULES OF PROCEDURE**

### **1. COUNCIL PROCEDURE RULES**

#### **18.11 Motions which may be moved during debate**

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) that the meeting continue beyond 3 hours in duration;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a Member named under Rule 25.2(i) or to exclude them from the meeting under Rule 25.2(ii).

#### **18.12 Closure Motions**

- (a) A Member may move, without comment, the following closure motions at the end of a speech of another Member:
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) A closure motion shall be moved, seconded and put without discussion.
- (c) A closure motion may not be moved or seconded by the mover or seconder of the motion or any Member who has spoken on the motion.

## **PART 4 RULES OF PROCEDURE**

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- (d) If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the closure motion to the vote. If the closure motion is carried the motion shall lapse.
- (e) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, he/she will put the closure motion to the vote. If it is carried he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (f) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has been sufficiently discussed he/she may refuse to accept the closure motion and shall instead move a motion “that the question be now put” as at (e) above.
- (g) If the Chair is of the opinion that the motion has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply. The motion (if the debate is adjourned) or the remaining business (if the meeting is adjourned) shall then stand over as uncompleted business to the next meeting.
- (h) If any closure motion is lost a further closure motion in the same or similar terms shall not be permitted within a period of 15 minutes thereafter.

#### **18.13 Point of Order**

A Member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules or the Law. The Member must indicate the Rule or law and the way in which he/she considers it has been broken. The ruling of the Chair on the matter will be final.

## **PART 4 RULES OF PROCEDURE**

### **1. COUNCIL PROCEDURE RULES**

#### **18.14 Personal Explanation**

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

#### **19. STATE OF THE BOROUGH DEBATE**

##### **19.1 Calling of Debate**

The Chair may call a state of the Borough debate annually on a date and in a form to be agreed with the Elected Mayor.

##### **19.2 Form of Debate**

The Chair will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the state of the Borough debate. Council Procedure Rules may be suspended by the Chair on the advice of the Monitoring Officer to ensure maximum flexibility.

##### **19.3 Chairing of Debate**

The debate will be Chaired by the Chair.

##### **19.4 Results of Debate**

The results of the debate will be:

- (i) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (ii) considered by the Mayor in proposing the budget and policy framework to the Council for the coming year.

## **PART 4 RULES OF PROCEDURE**

### **1. COUNCIL PROCEDURE RULES**

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

##### **20.1 Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past 6 months cannot be moved unless the notice of motion is signed by the number of Members that would constitute a quorum of the Council or is a recommendation of the Executive or a Committee or Sub-Committee of the Council.

##### **20.2 Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past 6 months cannot be moved unless the notice of motion or amendment is signed by the number of Members that would constitute a quorum of the Council or is a recommendation of the Executive or a Committee or Sub-Committee of the Council.

#### **21. VOTING**

##### **21.1 Majority**

Unless the law provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

##### **21.2 Chair's casting vote**

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

##### **21.3 Show of hands or electronic voting**

Unless a recorded vote is held under Rule 21.4, the Chair will take the vote either by show of hands or electronically by using the available technology, or if there is no dissent, by the affirmation of the meeting.

## **PART 4 RULES OF PROCEDURE**

### **1. COUNCIL PROCEDURE RULES**

#### **21.4 Recorded vote**

Recorded votes will be held at Council Budget setting meetings on any decision relating to the Budget or Council Tax. Immediately after such a vote is taken, the names of the persons who cast a vote for the decision or against the decision or who abstained from voting will be recorded in the minutes of the proceedings of that meeting.

At any other time, if a demand is made at a meeting by the required number of Members, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered in to the minutes.

The required number of Members is:

- (a) one third of the Members entitled to vote at the meeting; or
- (b) where the authority is divided in to Political Groups, in accordance with the Local Government and Housing Act 1989, in the case of a meeting of the Council, such number as is equal to the number of Members of the second largest Political Group, and in the case of a meeting of a Committee or Sub-Committee the number of seats on that body allocated to the second largest Political Group among the Members of the Council, whichever is the less.

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

Where any Member requests it immediately after the vote is taken his/her vote will be so recorded in the minutes to show whether he/she voted for or against the motion or abstained from voting.

#### **21.6 Voting on appointments**

Where a vote is required on a motion to appoint or elect a Member of the Council to a position to be filled by the authority and there are 2 or more Members nominated for that position, the names of all those nominated shall be put to the meeting in alphabetical order of surname. Those entitled to vote shall each vote for only one person. If there is not a majority of those voting in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken, and so on, until a majority of votes is given in favour of one person.

## **PART 4 RULES OF PROCEDURE**

### **1. COUNCIL PROCEDURE RULES**

#### **22. MINUTES**

##### **22.1 Signing the minutes**

Minutes of a meeting of the Council shall be made available to each Member of the Council at least 5 clear days before the meeting of Council at which such minutes are to be submitted for confirmation.

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy. If no question is raised, or as soon as any such question has been disposed of, the Chair shall sign the minutes.

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

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

##### **22.3 Form of minutes**

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

#### **23. RECORD OF ATTENDANCE**

Every Member of the Council attending a meeting of the Council or of any of its Committees or Sub-Committees of which he/she is a Member shall sign his/her name in the attendance book or sheet provided for that purpose, and every Member attending some other meeting, conference or inspection on approved duty shall sign his/her name in the register kept for that purpose.

#### **24. EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in this Constitution or Rule 26 (Disturbance by Public).



## **PART 4 RULES OF PROCEDURE**

### **1. COUNCIL PROCEDURE RULES**

#### **25. MEMBERS' CONDUCT**

##### **25.1 Chair standing**

When the Chair stands during a debate, any Member speaking at the time must stop immediately. The meeting must be silent.

##### **25.2 Improper conduct**

If the Chair is of the opinion that a Member has persistently disregarded the ruling of the Chair by behaving improperly or offensively or deliberately obstructing the business, the Chair may notify the meeting of that opinion and may take any of the following courses of action, either separately or in sequence:

(i) Member Not to be Heard Further

Move that the Member be not heard further. If seconded, the motion will be voted on without discussion. If carried the Member shall not speak further at the meeting.

(ii) Member to Leave the Meeting

Move that the Member leaves the meeting. If seconded, the motion will be voted on without discussion. If carried, the Member named shall immediately leave the meeting.

(iii) Adjourn the Meeting

Adjourn the meeting for such a period as he/she considers appropriate.

(iv) Order Member to Leave/be Removed from the Meeting

Order the Member to leave the meeting or if necessary, the Member to be removed.

##### **25.3 General disturbance**

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as he/she thinks necessary.

## **PART 4 - RULES OF PROCEDURE**

### **1. COUNCIL PROCEDURE RULES**

#### **25.4 Disclosable Pecuniary Interests**

If a Member has a Disclosable Pecuniary Interest (as defined in the Members' Code of Conduct) he/she must leave the room (including the public gallery) during any item of business (including discussion and any voting) on having, or having disclosed, a Disclosable Pecuniary Interest in that item, unless where permitted to remain as a result of a dispensation.

#### **25.5 Disclosure of Other Registerable Interests**

Where a matter arises at a meeting which directly relates to a Member's Other Registerable Interest (as defined in the Members' Code of Conduct), he/she must disclose the interest. He/she may only speak on the matter if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must leave the room (including the public gallery), unless where permitted to remain as a result of a dispensation.

#### **26. DISTURBANCE BY PUBLIC**

##### **26.1 Removal of Member of the public**

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

##### **26.2 Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

##### **26.3 Adjournment of Meeting**

If proceedings are interrupted the Chair may adjourn the meeting for so long as he/she thinks necessary.

#### **27. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

27.1 All of these Council Procedure Rules except Rule 1, 7-11, 21, 22.2, 23, 24, 31 and 34 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present and a majority of those present support the motion. Suspension can only be for the duration of the meeting.

##### **27.2 Amendment**

Any motion to add to, vary or revoke these Council Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council, where it will be considered alongside a report by the Monitoring Officer.

## **PART 4 RULES OF PROCEDURE**

### **1. COUNCIL PROCEDURE RULES**

#### **28. APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

All of the Council Procedure Rules apply to meetings of full Council. None of these Rules apply to meetings of the Executive. Rules 5, 7-12, 15-18 (but not Rule 15.2), 21-38 apply to meetings of Committees and Sub-Committees.

#### **29. ADDITIONAL PROVISIONS FOR COMMITTEES AND SUB-COMMITTEES**

- 29.1 The Council may at any time resolve to appoint a Committee or Sub-Committee, and if so shall decide on the terms of reference, and the number of voting Members and may decide on the appointment and functions of non-voting Members and on the limitation of the powers of any such Committee to appoint Sub-Committees or Sub-Groups.
- 29.2 The Council may, subject to any statutory provision, or provision in this Constitution at any time resolve to dissolve a Committee or Sub-Committee or may amend resolutions made under rule 1.2.
- 29.3 Every Committee or Sub-Committee or other Sub-Group shall continue to discharge the functions committed to them until the Council resolve otherwise.
- 29.4 Subject to s.102(5) of the 1972 Act (Councillor not re-elected to cease to be a Member of a Committee), s.80 of the 1972 Act (Loss of office through disqualification) and 29.10 below every person appointed as a voting Member of a Committee or Sub-Committee (and every person appointed to exercise other functions in relation to a Committee or Sub-Committee) shall continue as such until the appointment is terminated by the Council.
- 29.5 The Chair of Council shall be entitled to attend and speak at any meeting of a Committee but not vote unless appointed as a voting Member.

## **PART 4 RULES OF PROCEDURE**

### **1. COUNCIL PROCEDURE RULES**

29.6 A Member of the Council who is not otherwise entitled to attend and speak at a Committee, Sub-Committee or other Sub-Group shall be entitled to do so, but not to vote:

- (a) during the consideration of any motion of which notice has been given further to these rules which he/she has moved or seconded at a meeting of the Council and which has been referred to that Committee, Sub-Committee or other Sub-Group, or
- (b) with the agreement of the Chair.

29.7 **Appointments to be politically proportional**

Whenever:

- (a) the Council is required to review the allocation of seats on Committees between Political Groups, or
- (b) the Council resolves to carry out such a review, or
- (c) a Committee is required to review the allocation of seats on a Sub-Committee or other Sub-Group between Political Groups, or
- (d) a Committee resolves to carry out such a review

the Chief Executive shall submit a report to the Council or Committee as the case may be showing what allocation of seats would in his/her opinion, best meet the requirements of section 15(4) of the Local Government and Housing Act 1989.

29.8 In the light of such a report as is mentioned in 29.7 the Council or Committee, as the case may be, shall determine the allocation of seats to Political Groups.

## **PART 4 RULES OF PROCEDURE**

### **1. COUNCIL PROCEDURE RULES**

- 29.9 Whenever an appointment of a voting Member of a Committee or Sub-Committee or other Sub-Group falls to be made in accordance with the wishes of a Political Group to whom the seat has been allocated, and whenever such an appointment falls to be terminated in accordance with such wishes then the Council or the Committee, as the case may be, at a meeting at which the wishes of the Political Group are expressed, or at the next meeting after those wishes are expressed, or where there is a failure to express such wishes shall make or terminate the appointment accordingly.
- 29.10 Subject to the approval of the Council and to any resolutions by the Council every Committee may appoint Sub-Committees or other Sub-Groups for such purposes as they think fit, and may make arrangements for a Sub-Committee or other Sub-Group to discharge any of the functions of the authority which the Committee may discharge.

### **30. MEETINGS OF COMMITTEES AND SUB-COMMITTEES**

#### **30.1 Time and place of ordinary meetings**

The Council at the Annual Meeting shall fix the date and time and place of Ordinary Meetings of Committees and may fix the date and time and place of Ordinary Meetings of Sub-Committees and other Sub-Groups.

- 30.2 If the Council do not fix the date, time or place of an Ordinary Meeting of a Committee, Sub-Committee or other Sub-Group then the relevant Committee may do so.
- 30.3 The Chair of a Committee or Sub-Committee or the Chair of Council may call an Extraordinary Meeting of a Committee or Sub-Committee at any time.
- 30.4 The Chair of a Committee or Sub-Committee, or the Chair of Council, may if he/she considers it necessary (and after consultation so far as practicable with such persons as appear to him/her to be representative of the Political Groups to which seats on the Committee or Sub-Committee have been allocated) cancel a meeting of the Committee or Sub-Committee or may change any of the details of place, date or time already fixed for the meeting.

## **PART 4 RULES OF PROCEDURE**

### **1. COUNCIL PROCEDURE RULES**

#### **31. EXTRAORDINARY MEETING**

- 31.1 If a requisition for an Extraordinary Meeting of a Committee or Sub-Committee signed by at least 2 or one quarter of the total number of the voting Members of a Committee or Sub-Committee, whichever is greater, has been presented to the Chair; and
- 31.2 Where it is decided to call an Extraordinary Meeting of a Committee or Sub-Committee under 31.1 above, the Members calling the meeting shall tell the Chief Executive they have done so, the business to be transacted and the date, time and place for which the meeting is called. The Chief Executive shall then ensure that the necessary notices and summonses are sent out.
- 31.3 Any requisition under 31.1 may be presented by being left with the Chief Executive.
- 31.4 All meetings of Committees and Sub-Committees shall be held at the Civic Office, Waterdale, Doncaster, DN1 3BU unless the relevant Committee, Sub-Committee or Chief Executive otherwise directs.

#### **32. COMMITTEE AGENDAS**

- 32.1. The agenda for every Committee or Sub-Committee meeting will:-
- (a) (i) receive apologies for absence;
  - (ii) receive declarations by Members of interests in matters to be considered at the meeting;
  - (iii) approve as a correct record the minutes of the last meeting;
  - (b) receive items of business which are referred to the Committee or Sub-Committee by the Council or by another Committee or Sub-Committee.
  - (c) receive reports submitted to the Committee or Sub-Committee by the Chief Executive or any Director or Assistant Director.
  - (d) receive any item of business directed to be included by the Chair.

## **PART 4 RULES OF PROCEDURE**

### **1. COUNCIL PROCEDURE RULES**

#### **33. DURATION OF MEETING**

33.1 Unless the majority of Members present vote for the meeting to continue, any meeting of a Committee or Sub-Committee which has continued for 3 hours shall adjourn and the matter then under discussion and all other business not yet considered shall be adjourned to a date to be fixed or to the next Ordinary Meeting.

#### **34. QUORUM FOR COMMITTEES OR SUB-COMMITTEES**

34.1 The quorum of the Council in Committee shall be one third of the whole number of Members entitled to be present.

34.2 The quorum of a Committee shall be one quarter of the voting Members, and in any event no fewer than 3 voting Members.

34.3 The quorum of a Sub-Committee shall be 3 voting Members, except where the Membership of the Committee is 3 or fewer, in which case the quorum shall be 2 Members.

#### **35. APPOINTMENT OF CHAIR & VICE-CHAIR**

35.1 Appointments of the Chair and Vice-Chair of a Committee shall be made by the Council or in default, by the Committee at its first meeting.

35.2 The Chair and Vice-Chair of a Sub-Committee shall be appointed at the Annual Council Meeting or at the first meeting of the Sub-Committee after the Annual Meeting of the Council, or by the Committee on the appointment of a Sub-Committee by a Committee.

35.3 The Chair, if present, shall preside at every meeting. In the absence of the Chair the Vice-Chair, if present, shall preside. In the absence of both Chair and Vice-Chair, the Committee or Sub-Committee shall elect a Member of the Council from among their number to preside at the meeting.

#### **36. URGENT DECISIONS**

36.1 The Chief Executive, a Director or an Assistant Director may, in consultation with the Chair or Vice-Chair of the appropriate Committee or, in their absence, with the Chair or Vice-Chair of Council take action in matters of urgency.

36.2 In all cases a written record shall be made of the action taken, who was consulted and the reason for urgency and a copy shall be sent to the Chief Executive.

## **PART 4 RULES OF PROCEDURE**

### **1. COUNCIL PROCEDURE RULES**

36.3 The officer taking the action under 36.1 shall report such action to the first available meeting of the appropriate Committee or Sub-Committee.

#### **37. RECORDING/FILMING PROCEEDINGS AND MOBILE PHONES**

37.1 The filming and recording of the public sessions of any Council, Cabinet, Committee, Sub-Committee or Panel meetings through any audio, visual or written methods will be allowed, providing this does not disturb the conduct of the meeting.

37.2 The Chair of the relevant meeting will have the power to withdraw this permission should it prove necessary due to the nature of the meeting or if the conduct of the meeting is disturbed, for example through flash photography, intrusive camera or lighting equipment or the behaviour of the person filming the meeting.

37.3 All those visually recording a meeting are requested to only focus on recording Councillors, Officers and the public directly involved in the conduct of the meeting.

37.4 Any mobile phone or other electronic communications device taken to a meeting should not be used in such a way as to interfere with the proceedings during the meeting.

#### **38. INTERPRETATION AND APPLICATION**

38.1 The decision of the Chair on the advice of the Monitoring Officer or his/her representative on the construction, application or interpretation of these Council Procedure Rules and on any question of order not provided for in these rules shall be final.

38.2 In these Council Procedure Rules, unless the context otherwise requires the singular includes the plural and the masculine includes the feminine.



## **PART 4 RULES OF PROCEDURE**

### **2. ACCESS TO INFORMATION PROCEDURE RULES**

#### **1. SCOPE**

These rules apply to all meetings of the Full Council and its Committees and Sub-Committees, Overview and Scrutiny Management Committee and Panels, Area Committees (if any) and public meetings of the Executive (together called meetings).

#### **2. ADDITIONAL RIGHTS TO INFORMATION**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

#### **3. RIGHTS TO ATTEND MEETINGS**

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

#### **4. NOTICES OF MEETING**

4.1 Except in cases of special urgency (see Rule 16), the Council will give at least five clear working days' notice of any meeting by posting details of the meeting at the Civic Office, Waterdale, Doncaster, DN1 3BU.

4.2 In all cases in these rules, 'five clear days' do not include weekends or national holidays and exclude both the day of the meeting and the day on which the meeting is called.

#### **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

(a) The Council will make copies of the agenda and reports open to the public available for inspection at the Civic Office, Waterdale, Doncaster, DN1 3BU at least five clear days before the meeting.

(b) If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons had been sent out the designated Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection from the time the item was added to the agenda.

## **PART 4 RULES OF PROCEDURE**

### **2. ACCESS TO INFORMATION PROCEDURE RULES**

#### **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 Chief Executive thinks fit, copies of any other documents supplied to Councillors in connection with an item

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

#### **6a. URGENT ITEMS**

An item not on the agenda may be considered if it is the Chair's opinion that special circumstances make it necessary to consider an item as a matter of urgency and minutes of the meeting record the special circumstances which make it necessary to consider the item as a matter of urgency.

#### **7. ACCESS TO MINUTES ETC. AFTER THE MEETING**

The Council will make available for inspection 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.

## **PART 4 RULES OF PROCEDURE**

### **2. ACCESS TO INFORMATION PROCEDURE RULES**

#### **8. BACKGROUND PAPERS**

##### **8.1 List of Background Papers**

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

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but 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.

Background papers relating to Executive reports will be published on the Council's website.

#### **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 the Civic Office, Waterdale, Doncaster, DN1 3BU.

#### **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

##### **10.1 Confidential Information - Requirement to Exclude Public**

The public must be excluded from meetings wherever it is likely that confidential information would be disclosed.

##### **10.2 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.

## PART 4 RULES OF PROCEDURE

### 2. ACCESS TO INFORMATION PROCEDURE RULES

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 by law.

#### 10.3 **Meaning of Confidential Information**

Confidential information is defined in section 100A(3) of the Local Government Act 1972 as information provided to the Council by a Government department upon terms (however expressed) which forbid the disclosure of the information to the public, or, information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court.

#### 10.4 **Meaning of Exempt Information**

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

Category	Condition
1. Information relating to any individual.	Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
2. Information which is likely to reveal the identity of an individual.	Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## PART 4 RULES OF PROCEDURE

### 2. ACCESS TO INFORMATION PROCEDURE RULES

<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)</p>	<p>Information is not exempt information if it is required to be registered under:-</p> <ul style="list-style-type: none"> <li>(a) the Companies Act 1985;</li> <li>(b) the Friendly Societies Act 1974;</li> <li>(c) the Friendly Societies Act 1992;</li> <li>(d) the Industrial and Provident Societies Act 1965 to 1978;</li> <li>(e) the Building Societies Act 1986; or</li> <li>(f) the Charities Act 1993.</li> </ul>
	<p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Authority or a Minister of the Crown and employees of, or office holders under, the Authority.</p>	<p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>

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<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>6. Information which reveals that the Authority proposes:-</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person: or</p> <p>(b) to make an order or direction under any enactment.</p>	<p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>

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

## **PART 4 RULES OF PROCEDURE**

### **2. ACCESS TO INFORMATION PROCEDURE RULES**

Information which falls within any of paragraphs 1 to 7 above is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information (The “Public Interest Test”).

#### **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Chief Executive or his nominee 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.

## PART 4

### RULES OF PROCEDURE

#### 2. ACCESS TO INFORMATION PROCEDURE RULES

##### PROTOCOL

##### DISCLOSURE OF CONFIDENTIAL OR EXEMPT INFORMATION BY MEMBERS

Under paragraph 4.1 of the Members' Code of Conduct, there are only limited situations where a Member is entitled to disclose confidential information. One of these is where the disclosure is reasonable and in the public interest, and is made in good faith and in compliance with the 'reasonable requirements' of the Council. These requirements are set out below.

Where a decision has been made under these Rules to exclude public access on the basis that confidential or exempt information would otherwise be disclosed, or in any other circumstances where a Member wishes to disclose a document containing confidential or exempt information, the Council requires the Member to approach the Monitoring Officer for a decision as to whether that information should be disclosed by taking the following steps: -

- 1) The Member must submit a request in writing to the Monitoring Officer stating:
  - the information which he/she proposes to disclose;
  - to whom it is proposed disclosure will be made to; and
  - the rationale for its disclosure stating why they consider it to be reasonable and in the public interest to do so.
- 2) The Member should give reasonable notice of their intention to make such a disclosure (usually 5 working days notice unless exceptional circumstances apply which are set out in the request).

The Monitoring Officer will consider whether, if the Council received a Freedom of Information request at the time, the Council would not be obliged to disclose that information. In such a case disclosure will be refused. The Monitoring Officer in coming to his/her decision will give particular consideration to the public interest reasons for disclosure proposed by the Member, and to the Member's right of freedom of expression and the particular importance of that right for elected representatives.

Members will also have regular access to personal information. Members are likely to use personal information in a variety of roles and in some instances they may be required to register with the Information Commissioner dependent on the role or roles in which they are using personal data.

In addition, in their use of personal data, Members need to be aware of their own personal responsibilities to ensure that their use of such data is fair and lawful and in accordance with good practice. Members also need to take appropriate security to protect personal information that they hold.

Further advice can be obtained from the Council's Information Management Officer.



## **PART 4 RULES OF PROCEDURE**

### **2. ACCESS TO INFORMATION PROCEDURE RULES**

#### **12. APPLICATION OF RULES TO THE EXECUTIVE**

- (a) Rules 13-23 apply to the Executive and its Committees.
- (b) When the Executive or its Committees meet to take a key decision then it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 8 of this Constitution.
- (c) 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 forward plan by which it is to be decided, then it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include meetings whose sole purpose is for Officers to brief Members.

#### **13. PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here a forward plan) has been published in connection with the matter in question
- (b) at least 28 clear calendar days have elapsed since the publication in connection with the matter in question
- (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).

#### **14. THE FORWARD PLAN**

##### **14.1 Period of Forward Plan**

A forward plan will be prepared each calendar month by the Mayor and will:

- (a) cover a period of four months
- (b) take effect on the first day of the second month of the previous plan

## **PART 4 RULES OF PROCEDURE**

### **2. ACCESS TO INFORMATION PROCEDURE RULES**

- (c) amended forward plans may be prepared at any time and will take effect on a date specified in the plan, not less than 14 or more than 21 days before it comes into effect.

#### **14.2 Contents of Forward Plan**

The Forward Plan will contain matters which the Mayor has reason to believe will be subject of a key decision to be taken by the Executive, a Committee of the Executive, individual Members of the Executive, Officers, Area Committees or under Joint Arrangements in the course of the discharge of an Executive function during the period covered by the plan. It will describe the following, so far as the information is available or might reasonably be obtained:-

- (a) that a key decision is to be made on behalf of the Local Authority;
- (b) the matter in respect of which a decision is to be made;
- (c) where the decision taker is an individual, his/her name and title, and where the decision taker is a body; its name and details of Membership;
- (d) the date on which, or the period within which, the decision will be taken;
- (e) a list of the documents submitted to the decision taker for consideration in relation to the matter;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision maker; and
- (h) the procedure for requesting details of those documents (if any) as they become available.

Confidential or exempt information or particulars of the advice of a political adviser or assistant may not be contained within the Forward Plan.

## **PART 4 RULES OF PROCEDURE**

### **2. ACCESS TO INFORMATION PROCEDURE RULES**

#### **15. GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- (b) the Chief Executive has informed the Chair of the relevant Overview and Scrutiny Panel or if there is no such person, each Member of that Panel in writing, by notice, of the matter about which the decision is to be made and reasons for its urgency;
- (c) the Chief Executive has made copies of that notice available to the public at the offices of the Council and on the Council's website; and
- (d) at least 5 clear days have elapsed since the Chief Executive complied with (c) above.

Where such a decision is taken collectively, it must be taken in public.

#### **16. SPECIAL URGENCY**

- 16.01 (a) If by virtue of the date by which a decision must be taken Rule 15 (General Exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of:
- (i) the Chair of the relevant Overview and Scrutiny Panel; or
  - (ii) if there is no such person, or if the Chair of the relevant Overview and Scrutiny Panel is unable to act, the Chair of the Overview and Scrutiny Management Committee; or
  - (iii) if there is no such person, or if the Chair of the Overview and Scrutiny Management Committee is unable to act, the Chair of Council; or

## **PART 4 RULES OF PROCEDURE**

### **2. ACCESS TO INFORMATION PROCEDURE RULES**

- (iv) where there is no Chair of either the relevant Overview and Scrutiny Panel, Overview and Scrutiny Management Committee or of Council, the Vice-Chair of the Council.

that the making of the decision is urgent and cannot reasonably be deferred.

- (b) Where there is doubt, the Chief Executive will determine which is the relevant Overview and Scrutiny Committee.

#### **16.02 Annual Report on Special Urgency Decisions**

The Mayor will submit an annual report to the Full Council at its last ordinary meeting of each Municipal Year on the Executive decisions taken in the circumstances set out in Rule 16 of the Access to Information Procedure Rules (special urgency) in the preceding twelve 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. KEY DECISIONS NOT TAKEN IN ACCORDANCE WITH THESE RULES**

The powers of Overview and Scrutiny Management Committee and Panels when they believe decisions have been taken outside of these rules are set out in Rule 21 of the Overview and Scrutiny Procedure Rules.

#### **18. RECORD OF DECISIONS**

After any meeting of the Executive or any of its Committees, whether held in public or private, the Chief Executive 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) details of the decisions, including the date when they were made
- (b) a statement of the reasons for each decision
- (c) any alternative options considered and rejected at that meeting
- (d) details of any declaration of interest (and any dispensation granted by the Monitoring Officer).

The record will be available for inspection by members of the public at the offices of the Council and on the Council's website.

## **PART 4 RULES OF PROCEDURE**

### **2. ACCESS TO INFORMATION PROCEDURE RULES**

#### **19. 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.

#### **20. NOTICE OF AND ATTENDANCE AT MEETINGS OF THE EXECUTIVE**

- (a) There will be three types of meeting of the Executive and Committees of the Executive:
  - (i) Public Decision Making Meetings
  - (ii) Private Decision Making Meetings
  - (iii) Private Non-Decision Making Meetings
- (b) All key decisions (as defined in Article 8.03) will be taken in public unless they are exempt for one or more reasons set out in Rule 10.4 or contain confidential information under Rule 10.3 of these Rules.
- (c) Notice of all decision making meetings, including an agenda will be served on all Members of the Council.
- (d) Notice of all decision making meetings will be served on all Executive Members, to include all reports and associated papers.
- (e) Notice of all decision making meetings to include all reports and associated papers will be served on the Chief Executive, the Chief Financial Officer and the Monitoring Officer, each of whom will be entitled to attend any such meeting.
- (f) Overview and Scrutiny Members and other interested parties may attend private meetings of the Executive by invitation.
- (g) Those entitled to notice of meetings of the Executive or Committees of the Executive will receive five clear working days' notice.
- (h) Rule 18 applies to all meetings of the Executive or Committees of the Executive.

## **PART 4 RULES OF PROCEDURE**

### **2. ACCESS TO INFORMATION PROCEDURE RULES**

#### **21. KEY DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**

##### **21.1 Reports intended to be taken into account**

Where an individual Member of the Executive receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least 5 clear days after receipt of that report, except in cases of special urgency under Rule 16.

##### **21.2 Provision of Copies of Reports to Overview and Scrutiny Panel**

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of every relevant Overview and Scrutiny Panel as soon as reasonably practicable, and make it publicly available at the same time.

##### **21.3 Restrictions of Access to Reports**

Reports referred to in Rule 21 are subject to the restrictions on access set out in Rule 11.

##### **21.4 Record of Individual Decision**

As soon as is reasonably practicable after an Executive decision has been taken by an individual Member of the Executive or by an Officer, he/she will prepare, or instruct the Chief Executive to prepare, a record of the decision, including a statement of the reasons for it, alternative options considered and rejected and details of any declaration of interest (and any dispensation granted by the Monitoring Officer). This record will be available for inspection by members of the public at the offices of the Council and on the Council's website. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual Members of the Executive. This does not require the disclosure of exempt or confidential information or advice from a political or Mayor's assistant.

#### **22. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS**

##### **22.1 Rights to Copies**

Subject to Rule 23.2 below, Members of the Overview and Scrutiny Management Committee or Panels 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:-

## **PART 4 RULES OF PROCEDURE**

### **2. ACCESS TO INFORMATION PROCEDURE RULES**

- (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, or
- (c) any executive decision taken by an Officer.

Where a member of an Overview and Scrutiny Committee or Panel requests such a document, the Executive must provide that document as soon as reasonably practicable and, in any case, no later than 10 clear working days after the Executive receives the request.

#### **22.2 Limit on Rights**

Members of the Overview and Scrutiny Management Committee or an Overview and Scrutiny Panel 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:-
  - (i) an action or decision they are reviewing or scrutinising or intend to scrutinise; or
  - (ii) any review contained in any programme of work of such a committee or panel; or
- (c) any document containing the advice of a political adviser or assistant.

Where the Executive determines that a Member of an Overview and Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out in Procedure Rule 22.2, it must provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

### **23. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

#### **23.1 Material relating to previous business**

All Members will be entitled to inspect any document which is in the possession or under the control of the Executive or its Committees and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies:

## **PART 4 RULES OF PROCEDURE**

### **2. ACCESS TO INFORMATION PROCEDURE RULES**

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information; or
- (b) it contains the advice of a political adviser.

#### **23.2 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 or under the control of the Executive or its Committees which relates to any key decision unless Rule 23.1 (a) or (b) applies.

#### **23.3 Nature of Rights**

These rights of a Member are additional to any other right he/she may have.

#### **Statutory and Guidance References**

**Local Government Act 1972 s100A-H, Sch. 12A**

**Local Government Act 2000 s22**

**Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012**

**DETR New Council Constitutions Guidance Chapter 7**



## **PART 4 RULES OF PROCEDURE**

### **3. BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

These Procedure Rules are Standing Orders made under s135 Local Government Act 1972 and Local Government Act 2000 requirements.

#### **1. The Framework for Executive Decisions**

The Full Council will adopt the budget and policy framework as defined in these Rules and Section 3 of Part 3 of this Constitution. Once in place, it is the responsibility of the Executive to implement it.

The Budget shall mean:-

- (i) The identification and allocation of financial resources for the following financial year(s) by the Full Council including:-
  - Revenue Budgets;
  - Capital Budgets;
  - The Council Tax base;
  - The Council Tax level;
  - Borrowing requirements;
  - Prudential Indicators;
  - The Medium-Term Financial Strategy; and
  - The Level of Uncommitted Reserves.
- (ii) Any resolution of Full Council identified as a budgetary decision causing the total expenditure financed from Council Tax, grants and corporately held reserves to increase above that stated in the approved budget.

#### **2. Process for Developing the Framework (including the Dispute Resolution Procedure)**

- (a) The Executive will draw up proposals in relation to the budget, and the plans and strategies listed in Part 3.
- (b) The proposals will include:
  - (i) a timetable for development and adoption of the proposal.
  - (ii) details of any consultation, research or other investigation already undertaken or proposed to be undertaken by the Executive.

## **PART 4 RULES OF PROCEDURE**

### **3. BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

- (c) The proposal will be given to the relevant Overview and Scrutiny Panel or Management Committee which will be given at least 4 weeks to respond to the proposals from the date the proposal is notified.
- (d) Not less than 4 weeks after the initial proposal, the Executive will report the proposal to the Full Council showing how any response from the Overview and Scrutiny Committee and the outcome of consultation, research or investigations were taken into account.
- (e) The Full Council will consider the proposal and may:
  - (i) adopt or approve submission to the relevant secretary of State (where that is required);
  - (ii) object to the proposal and instruct the Executive to reconsider in the light of those objections.

The instruction to the Executive will allow at least 5 working days for the Executive to either submit a revised proposal or to respond to the objections in relation to the original proposal, giving reasons for the response.

- (f) The Full Council will, within 7 working days of receipt by the Chief Executive of the response of the Executive, consider that response and may either:
  - (i) by a simple majority of those voting, approve the original or revised proposal for adoption or submission to the Secretary of State
  - (ii) by a two thirds majority of those voting, amend or modify the revised or original proposal.

### **3. Calculation of Budget Requirements and Precepts.**

- (a) Where by the 8th February in any financial year the Executive submits to the Full Council estimates upon which to base the calculation of the budget requirements and precepts and the Full Council objects then the dispute resolution process set out in paragraph 2 will apply.

## **PART 4 RULES OF PROCEDURE**

### **3. BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

- (b) Paragraph 3(a) applies to calculations under sections 32-37 and 43-49 and Chapter IV of the Local Government Finance Act 1992 but not sections 52(I),(J), or (U) of that Act.

#### **4. Decisions Outside the Budget and Policy Framework**

- (a) Individual Members of the Executive and any Officers, Area Committees or Joint Arrangements discharging Executive functions may only take decisions which are in line with the budget and policy framework except;
- (b) If the Executive or any body or individual exercising an Executive function wishes to take a decision which may be wholly or partly outside the Budget and Policy Framework then;
  - (i) that body or person must seek the advice of the Monitoring Officer and/or Chief Finance Officer as appropriate;
  - (ii) If the advice of the Monitoring Officer and/or Chief Finance Officer is that the decision is wholly or partly outside the Budget and Policy Framework the decision must be referred to the Full Council for decision; unless;
  - (iii) the decision is urgent, in which case rule 5 applies.

#### **5. Urgent Decisions Outside the Budget or Policy Framework**

- (a) A decision is urgent if;
  - (i) it is not practical to convene a quorate meeting of the Full Council; and
  - (ii) the Chair of a relevant Overview and Scrutiny Committee or Panel agrees that the decision is a matter of urgency.
- (b) The reasons why it is not practical to convene a quorate meeting of Full Council and the Chair or Vice-Chair of the relevant Overview and Scrutiny Panel's consent to the decision being taken as a matter of urgency must be noted on the record of the decision.

## **PART 4 RULES OF PROCEDURE**

### **3. BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

- (c) In the absence of the Chair or Vice-Chair of the relevant Overview and Scrutiny Panel the consent of the Chair or Vice-Chair of Overview and Scrutiny Management Committee and in their absence, that of the Chair of the Council or Deputy Chair of the council, will be sufficient.
- (d) In the absence of all the Members listed in (b) and (c) the consent of the Monitoring Officer and/or Chief Finance Officer will be sufficient.
- (e) Following the decision, the decision taker will provide a full report to the next available Full Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.
- (f) When there is uncertainty, the Chief Executive will determine which is the relevant Overview and Scrutiny Chair.

#### **6. Virement**

- (a) Financial Procedure Rules may provide for limitations on transfers between or within the elements of the Budget
- (b) Any part of the Budget and Policy Framework may specify the extent to which the Executive may transfer funds within the framework.

#### **7. In-Year Changes to Policy Framework**

- (a) The Executive may vary the Policy Framework in circumstances where:-
  - (i) The relevant part of the Policy Framework provides for the Executive to determine a variation;
  - (ii) It is necessary to ensure compliance with the law, ministerial direction or government guidance;

## **PART 4**

### **RULES OF PROCEDURE**

#### **3. BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

- (iii) In relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Full Council following consultation, but where the existing policy document is silent on the matter under consideration.
- (iv) The result is a closure or discontinuance of a service or part of service in order to meet a budgetary constraint;
- (b) Therefore recommendations from the Executive to the Full Council informing the Policy Framework may contain recommendations as to in what circumstances each part of the proposed Policy Framework may be varied by the Executive.
- (c) When the Executive varies the Policy Framework under this Rule it will report the variation and the reasons for it to the next available meeting of the Full Council.

#### **8. Call-In of Decisions Outside the Budget or Policy Framework**

- (a) Under Rule 9 of the Overview and Scrutiny Procedure Rules, any 4 Members of the Council, providing they are not all from the same political group, or any 5 Members of the Council from the same political group, may call in a decision which they believe to be outside the budget and policy framework.
- (b) Where an Overview and Scrutiny Panel or Management Committee (whether or not the decision has been called in) is of the opinion that an Executive decision is, or if made would be, wholly or partly outside the Budget and Policy Framework, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer (as appropriate).
- (c) The Monitoring Officer and/or Chief Finance Officer shall prepare a report for the Executive and provide a copy to each Member of the Council.
- (d) The Executive will meet within 5 working days of being given a copy of the report of the Monitoring Officer and/or Chief Finance Officer and decide what action to take.

## **PART 4 RULES OF PROCEDURE**

### **3. BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

- (e) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Panel or Management Committee may refer the matter to a Full Council meeting.
- (f) No further action will be taken in respect of the decision or its implementation until the Full Council has met and considered the matter.
- (g) The Full Council shall meet within 10 working days of the request by the Overview and Scrutiny Panel or Management 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.
- (h) If for any reason a quorate meeting of Full Council has not determined the issue referred to them under this Rule within 10 working days the Chief Executive will immediately call an Extraordinary Full Council Meeting.
- (i) The Full Council may either:
  - (i) endorse a decision or proposal of the Executive decision taker as falling within the existing budget and policy framework, the decision to take immediate effect; or
  - (ii) amend the Budget and Policy Framework to allow the decision to take immediate effect; or
  - (iii) determine that the decision is wholly or partly outside the Budget and Policy Framework and require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.
- (j) Urgent decisions under Rule 5 may not be the subject of call-in.

## **PART 4 RULES OF PROCEDURE**

### **3. BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

9. Where a decision has been taken and implemented and it appears to an Overview and Scrutiny Management Committee or Panel, that it is wholly or partly outside the Budget or Policy Framework, on advice from the Monitoring Officer and/or Chief Finance Officer, then the Committee or Panel may submit a report to the Full Council and/or the Executive with or without recommendations.
10. Where any proposal, notice or other document is to be given by or to the Executive or the Full Council under these rules it is to be given, in writing, to the Chief Executive who is responsible for serving and/or publishing it.
11. The Chief Executive will call, at the earliest practical time, any meeting required to be called under these rules.

**Statutory and Guidance References DETR New Council Constitutions  
Guidance Chapters 2 and 7**

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## **PART 4 RULES OF PROCEDURE**

### **4. EXECUTIVE PROCEDURE RULES**

#### **1.1 Executive Decisions**

The Mayor will determine in a scheme of delegations (set out in Part 3 of this Constitution) which may provide for Executive decisions to be made by:-

- (a) the Mayor, personally;
- (b) the Executive as a whole;
- (c) a Committee of the Executive;
- (d) an individual Member of the Executive personally;
- (e) an Officer;
- (f) an Area Committee;
- (g) Joint Arrangements; or
- (h) another Local Authority.

#### **1.2 Delegation by the Mayor**

At the annual meeting of the Full Council, the Mayor will provide to the Full Council details of a written scheme of delegations made by him/her for inclusion in Part 3 to this Constitution. The scheme of delegations will contain the following information about Executive functions in relation to the coming year:-

- (i) the names, addresses and wards of the Members appointed to the Executive by the Mayor;
- (ii) the name of the Deputy Mayor, the extent of any delegations to them and the circumstances in which the Deputy may act in the place of the Mayor.
- (iii) the extent of any authority delegated to Executive Members individually, including details of the limitation on their authority;

## **PART 4 RULES OF PROCEDURE**

### **4. EXECUTIVE PROCEDURE RULES**

- (iv) the Terms of Reference and Constitution of such Executive Committees as the Mayor appoints and the names of Executive Members appointed to them;
- (v) 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
- (vi) the nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the office to whom the delegation is made.

#### **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 arrangement or an Officer.
- (b) If the Mayor delegates functions to the Executive, then the Executive may delegate further to a Committee of the Executive or to an Officer.
- (c) Unless the Mayor directs otherwise, a Committee of the Executive to whom functions have been delegated by the Mayor 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 the function.

#### **1.4 Amendment of Delegations by the Mayor**

- (a) The Mayor may amend the scheme of delegation at any time by serving notice of the change on the Chief Executive.
- (b) The Chief Executive will notify the body or individual affected by the change as soon as reasonably practicable on receipt of notice of the change.

## **PART 4 RULES OF PROCEDURE**

### **4. EXECUTIVE PROCEDURE RULES**

- (c) Subject to the provisions for the removal of Executive Members from office, as set out in Section 3 of Part 1 of this Constitution, the change in delegation will take effect when the Chief Executive is notified, notwithstanding that this Constitution has not been amended to reflect the change. The Chief Executive must report the change in delegation to the affected individual or body as soon as practicable.
- (d) The Chief Executive will report the change to the next available meeting of the Full Council and amend Part 3 of the Constitution accordingly.

#### **1.5 Conflicts of Interest**

- (a) Where the Mayor has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every Member of the Executive has a conflict of interest this should be dealt with as set out in the Members' Code of Conduct in Part 5 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 Council's Code of Conduct for Members in Part 5 of this Constitution.

#### **1.6 Number and Location of Executive Meetings**

The Executive will meet at least 12 times per year at times to be agreed by the Mayor. The Executive shall meet at the Civic Office, Waterdale, Doncaster, DN1 3BU, or other locations to be agreed by the Mayor.

- 1.7 The Access to Information Rules in Part 4 of this Constitution set out the requirements covering public and private meetings.

## **PART 4 RULES OF PROCEDURE**

### **4. EXECUTIVE PROCEDURE RULES**

#### **1.8 Quorum**

The quorum for a meeting of the Executive shall be 3, including either the Mayor or Deputy Mayor. Where the Mayor and Deputy Mayor are not present at a meeting of the Executive, the quorum will be 4.

#### **1.9 Decisions of 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 Part 4 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.
- (c) Executive decisions delegated to individuals will be recorded on a form for that purpose and will be ineffective if not so recorded.

### **2. CONDUCT OF EXECUTIVE MEETINGS**

#### **2.1 Chairing**

- (a) If the Mayor is present he/she will take the Chair.
- (b) In the absence of the Mayor, the Deputy Mayor will take the Chair.
- (c) In the absence of the Mayor and the Deputy Mayor, the Mayor will notify the Chief Executive in writing by no later than 9.00 a.m. on the day of the meeting, the name of the Executive Member to preside and Chair the meeting.

#### **2.2 Notice of and attendance at Executive Meetings**

Rule 21 of the Access to Information Procedure Rules sets out who is entitled to notice of and attend meetings of the Executive.

## **PART 4 RULES OF PROCEDURE**

### **4. EXECUTIVE PROCEDURE RULES**

#### **2.3 Executive Meeting Agenda**

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

- (i) consideration of the minutes or decision record forms of the last meeting;
- (ii) a period of time not exceeding 20 minutes in total be allocated for questions from members of the public/Elected Members to the Elected Mayor;
- (iii) declarations of interest, if any;
- (iv) matters referred to the Executive (whether by an Overview and Scrutiny Committee or by the Full Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (v) consideration of reports from Overview and Scrutiny Committees; and
- (vi) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

#### **2.4 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 Overview and Scrutiny Committees, 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.

## **PART 4 RULES OF PROCEDURE**

### **4. EXECUTIVE PROCEDURE RULES**

#### **2.5 Placing items on the Executive Agenda**

The Mayor will decide upon the schedule for the meetings of the Executive. He/she may put on the agenda of any Executive meeting any matter which he/she wishes, whether or not authority has been delegated to the Executive, a Committee of it or any Member or Officer in respect of that matter. The Chief Executive will comply with the Mayor's requests in this respect.

- (a) The following may require the Chief Executive to include items on the agenda for Executive meetings:
  - (i) the Mayor
  - (ii) any Member of the Executive
  - (iii) the Full Council
  - (iv) Overview and Scrutiny Management Committee or Panel
  - (v) the Chief Executive, the Monitoring Officer and/or the Chief Finance Officer
- (b) the Chief Executive will consult with the Mayor to ensure that the agenda is manageable in length. Only exceptionally will more than two items from the Full Council or Overview and Scrutiny be placed on the same agenda.
- (c) Where there is no Executive meeting within 10 days of the request for an item to be placed on the agenda then the person who made the request can serve a notice on the Chief Executive requiring a meeting to be called within 5 days.

## **PART 4 RULES OF PROCEDURE**

### **4. EXECUTIVE PROCEDURE RULES**

#### **QUESTIONS AND STATEMENTS AT EXECUTIVE MEETINGS**

“Question Time” sessions for questions/statements from members of the public and Elected Members under Rule 3 (lasting for a maximum of 20 minutes in total) shall be held at ordinary meetings of the Executive.

#### **3. QUESTIONS AND STATEMENTS BY THE PUBLIC/ELECTED MEMBERS**

##### **3.1 General**

Members of the public i.e. people who are residents of the Borough and Elected Members may ask questions and/or make statements at any ordinary meeting of the Executive in relation to an item of business on the agenda.

##### **3.2 Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Council’s Governance Team no later than 5.00 p.m. of the third working day before the day of the meeting. Each question or statement must give the name and address of the person submitting it. Questions/statements should be sent to the Governance Team, Floor 2, Civic Office, Waterdale, Doncaster, DN1 3BU or by email to [Democratic.Services@doncaster.gov.uk](mailto:Democratic.Services@doncaster.gov.uk).

##### **3.3 Scope of Questions**

Each person will be allowed to submit one question/statement per meeting. Questions/statements should be limited to a maximum of 100 words.

The Mayor may reject a question/statement if it:

- is not a matter which relates to an item of business on the agenda for the next scheduled ordinary meeting of the Executive;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Executive in the past three months;
- requires the disclosure of confidential or exempt information; or
- is submitted by a person who is not a resident of the Borough.

## **PART 4 - RULES OF PROCEDURE**

### **4. EXECUTIVE PROCEDURE RULES**

#### **3.4 Considering the question/statement at the meeting**

Copies of all questions/statements to be heard will be made available to the public attending the meeting. The Mayor will invite the person(s) to read out their question/statement. A copy of the intended response from the Mayor shall be provided to the person submitting a question/statement at the start of the meeting, to enable them to prepare a supplementary question to ask, if they so wish, with the Chair's permission. If a person who has submitted a question or statement is unable to attend the meeting, the Mayor will read out the question/statement on the person's behalf, and a copy of the answer given will be provided to them following the meeting.

#### **3.5 Supplementary question**

If the Chair permits, a member of the public or Elected Member asking a question or making a statement under Rule 3.1 may ask one supplementary question without notice. The supplemental question must arise directly out of the original question/statement or the reply and shall be put and answered without discussion.

#### **3.6 Written answers**

Any question which cannot be dealt with during public question time due to lack of time or any other reason will be dealt with by a written answer provided within 2 weeks of the meeting.

#### **3.7 Record of answers**

Details of all questions/statements made and the responses given shall be included in the decision record of the meeting.

### **4. RECORD OF DECISIONS**

Decisions by the Executive will be recorded in accordance with Rules 18 and 21.4 of the Access to Information Rules in Part 4 and made available for public inspection in accordance with Rule 7 of the Access to Information Rules.

### **5. ACCESS TO INFORMATION RULES**

Detailed rules setting out duties in relation to public access to the Executive decision making process are set out in Rules 13-21 of the Access to Information Rules.

<b>Statutory and Guidance References</b> <b>DETR New Council Constitutions Guidance Chapters 4 and 7</b>
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## **PART 4 RULES OF PROCEDURE**

### **5. OVERVIEW AND SCRUTINY PROCEDURE RULES**

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

- (a) The Full Council will appoint an Overview and Scrutiny Management Committee with the terms of reference set out in Article 4.01.
- (b) The Full Council will establish such Standing Overview and Scrutiny Panels as are necessary with terms of reference set out in Part 3 of the Constitution and delegate any in-year changes to the Overview and Scrutiny Management Committee, having regard to any requirement for political balance. (These Panels are Sub-Committees of the Council constituted under Sections 101 and 102 of the Local Government Act 1972).
- (c) Overview and Scrutiny Management Committee may establish such ad hoc Overview and Scrutiny Panels as it deems necessary from time to time.
- (d) The Chief Executive will maintain and publish an up to date list of ad hoc Overview and Scrutiny Panels and their terms of reference.

#### **2. Membership of Overview and Scrutiny Panels and Management Committee.**

- (a) The Mayor and Members of the Executive may not be Members of an Overview and Scrutiny Panel or Overview and Scrutiny Management Committee.
- (b) Membership of the Overview and Scrutiny Management Committee will include the Chairs of the Standing Panels.
- (c) If Chairs are unable to attend the Overview and Scrutiny Committee meetings then Vice-Chairs of the Standing Panels will act as their nominated substitute.
- (d) Proportionality will be disapplied to the Overview and Scrutiny Management Committee and Panels.
- (e) The Full Council will appoint the following co-optees to the Overview and Scrutiny Panel with education within its terms of reference, who so far as the law allows, have voting rights, and delegate any in-year changes to the Overview and Scrutiny Management Committee.
  - (i) at least one Church of England Diocese representative;

## **PART 4 RULES OF PROCEDURE**

### **5. OVERVIEW AND SCRUTINY PROCEDURE RULES**

- (ii) at least one Roman Catholic Diocese representative;
  - (iii) between 2 and 5 parent governor representatives (to be elected in accordance with the Parent Governor Representatives (England) Regulations 2001).
- (f) The Full Council may appoint, to any Overview and Scrutiny Panel, such standing, voting and or non-voting co-optees as it believes will enhance the process of Overview and Scrutiny and delegate any in-year appointments to the Overview and Scrutiny Management Committee. This will normally include:-
- (i) Representatives of faiths other than those in (b) above;
  - (ii) Representatives from further education institutions;
- (g) Trades Union representatives, young people (and others not eligible to be co-opted onto the Committee or Panels) may be invited to attend as participating observers who may speak but not vote and may have more limited rights to access information.
- (h) Co-optees and invitees may be paid their reasonable expenses and subsistence allowances at the same rates as are payable to Elected Members.

### **3. Chairing Overview and Scrutiny Management Committee and Panels**

- (a) The Full Council will appoint the Chair and Vice-Chair of Overview and Scrutiny Management Committee.
- (b) The Full Council will appoint the Chair and Vice-Chair of standing Overview and Scrutiny Panels at all times ensuring that not all Chairs and Vice-Chairs are drawn from the same party group.

### **4. Number and Timing of Meetings**

- (a) The Overview and Scrutiny Management Committee will meet at least 6 times per year on dates to be fixed at the Annual Council Meeting.
- (b) Further meetings of Overview and Scrutiny Management Committee may be called in accordance with Council Procedure Rules.

## **PART 4 RULES OF PROCEDURE**

### **5. OVERVIEW AND SCRUTINY PROCEDURE RULES**

- (c) Overview and Scrutiny Management Committee may determine meetings of Overview and Scrutiny Panels or leave the calling of meetings to the Panel under Council Procedure Rules.
- (d) Meetings will be held at venues appropriate to the business of the meeting. Choice of venue will be designed to encourage attendance and participation, particularly by those with a disability or who use public transport.

#### **5. Quorum**

The Quorum for Overview and Scrutiny Management Committee shall be 3.

#### **6. Work Programme**

- (a) Overview and Scrutiny Management Committee will determine its own work programme. Taking account of any matters referred to it by the Full Council or the Executive.
- (b) Overview and Scrutiny Management Committee will periodically consider matters affecting the area and/or its inhabitants which are not functions of the Full Council, for example healthcare provision, policing and crime and disorder reduction and the activities of the Local Strategic Partnership.
- (c) Subject to matters being referred to them by other parts of the Full Council or Executive, Overview and Scrutiny Management Committee will determine the Overview and Scrutiny work programmes.
- (d) Overview and Scrutiny Management Committee and Panels will ensure that the wishes of non voting Co-Optees, Invitees and Members of groups other than the largest Political Group are taken into account.
- (e) Terms of reference for ad hoc Overview and Scrutiny Panels are to be drafted by the Overview and Scrutiny Management Committee. The ad hoc Panel will comment on the draft terms of reference at its first meeting. Overview and Scrutiny Management Committee will receive recommendations from the ad hoc Panel prior to finally determining the terms of reference.

## **PART 4 RULES OF PROCEDURE**

### **5. OVERVIEW AND SCRUTINY PROCEDURE RULES**

- (f) Overview and Scrutiny Management Committee will establish and agree an Overview and Scrutiny protocol to assist in the operation of its functions. This will be reviewed periodically to ensure that the operation of the functions remains 'fit for purpose'.

### **7. Agenda Items**

- (a) Meetings of Overview and Scrutiny Committee will conduct the following business:-
  - (i) apologies for absence;
  - (ii) declarations of interest;
  - (iii) consideration of minutes of the last meeting;
  - (iv) A period of time not exceeding 20 minutes in total be allocated for statements from up to 5 members of the public who will be asked to give their name and address and interest/affiliation (if any). Statements should propose action(s) which may be considered or contribute to the future development of the Committee's Work Plan or relate specifically to an item on the agenda;
  - (v) any matters referred to it via the call-in mechanism;
  - (vi) any matters referred to it by the Executive;
  - (vii) any matters referred to it by the Full Council or its Committees;
  - (viii) any matter referred to it by the Monitoring Officer and/ or Chief Finance Officer;
  - (ix) any matters referred by a standing or ad hoc Overview and Scrutiny Panel;

## **PART 4 RULES OF PROCEDURE**

### **5. OVERVIEW AND SCRUTINY PROCEDURE RULES**

- (x) any matters referred to it by one or more Members of the Committee;
  - (xi) any matters referred to it by any Member or Co-Opted Members of any standing or ad hoc Overview and Scrutiny Panel including any issues that are referred to in accordance with the Councillor Call for Action process;
  - (xii) any matters referred by the Doncaster Federation of Tenants and Residents Associations or executive bodies of health agencies or other partnerships that are of a strategic nature and are not eligible for consideration as part of any appeals process;
  - (xiii) any matter referred to it in accordance with the Council's petition scheme;
  - (xiv) matters set out on the agenda for the meeting;
  - (xv) Annually - an annual Overview Scrutiny Plan;
  - (xvi) The revised Forward Plan;
  - (xvii) As necessary reports from Scrutiny Panel Chairs as to use of the urgency provisions.
- (b) The Proper Officer shall be responsible for publishing the agenda and shall consult with the Chair or Vice-Chair to avoid overloading any agenda.
- (c) Meetings of Overview and Scrutiny Panels will conduct the following business:-
- (i) apologies for absence;
  - (ii) declarations of interest;
  - (iii) consideration of Minutes of the last meeting;

## **PART 4**

### **RULES OF PROCEDURE**

#### **5. OVERVIEW AND SCRUTINY PROCEDURE RULES**

- (iv) a period of time not exceeding 20 minutes in total be allocated for statements from up to 5 members of the public who will be asked to give their name and address and affiliation (if any). Statements should propose action(s) which may be considered or contribute to the future development of the Panel's Work Plan or relate specifically to an item on the agenda;
- (v) any matters referred to it by the Executive;
- (vi) any matters referred to it by the Full Council or its Committees;
- (vii) any matter referred to it by the Monitoring Officer and/or Chief Finance Officer;
- (viii) any matters referred to it by Overview and Scrutiny Management Committee OR another standing or ad hoc Overview and Scrutiny Panel;
- (ix) any matters referred to it by any Member or co-opted Member of the Council or its Committees and Sub-Committees, including any issues that are referred in accordance with the Councillor Call for Action process;
- (x) matters set out in the agenda of the meeting;
- (xi) any matters referred by the Doncaster Federation of Tenants and Residents Associations or executive bodies of Health Agencies or other partnerships that are of a strategic nature and are not eligible for consideration as part of any appeals process;
- (xii) any matter referred to it in accordance with the Council's Petition Scheme;
- (xiii) Review of progress/outstanding work programme.

## **PART 4 RULES OF PROCEDURE**

### **5. OVERVIEW AND SCRUTINY PROCEDURE RULES**

#### **8. Policy Review and Development**

- (a) The role of Overview and Scrutiny Management Committee and Panels in relation to the development of the Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules. The rules include the process for referring Executive decisions wholly or partly outside the Budget and Policy Framework to the Full Council.
- (b) In relation to the review and development of policy other than in Budget and Policy Framework, Overview and Scrutiny Management Committee may receive requests from the Executive to undertake work and will also develop its own work programme.
- (c) In planning their workload Overview and Scrutiny Management Committee will have regard to its own Work Plan as well as The Forward Plan of key decisions in relation to policy review and development.
- (d) The planning of workloads will also take into account the programme of Best Value Reviews.

#### **9. Scrutiny of Decisions (“Call-In”)**

- (a) Call-in is an exceptional step to be taken only when Members with the power to call in decisions consider it to be a proportionate step which will be of benefit to the delivery of services under the Budget and Policy Framework or will improve the decision making process.
- (b) The following Executive decisions will be notified to all Members by the Chief Executive:-
  - (i) all decisions by the Mayor;
  - (ii) all decisions of the Cabinet;
  - (iii) all decisions of a Committee of the Cabinet;

## **PART 4 RULES OF PROCEDURE**

### **5. OVERVIEW AND SCRUTINY PROCEDURE RULES**

- (iv) all decisions by individual Executive Members;
- (v) key decisions delegated by the Executive to Officers  
  
as soon as reasonably practicable after the decision has been taken.
- (c) Executive decisions will not be implemented for 7 working days from the date they are notified. This period shall be known as the “call-in period”. Executive decisions will state the end of the call-in period and the name of the person responsible for implementing the decision.
- (d) At any time during the call-in period any 4 Members of the Council (provided that not all the Members are from the same Political Group), or any 5 Members of the Council from the same Political Group, may trigger a call-in by satisfactorily completing and signing a form approved by the Council for this purpose and delivered to the Monitoring Officer within the required timescales. The Monitoring Officer will rule on the validity of the call-in.
- (e) The Proper Officer will inform the decision maker and the person responsible for implementation as soon as is reasonably practicable that the decision has been called in.
- (f) A decision which is called in will not be implemented for a period of 10 working days after the end of the call-in period OR until a meeting of Overview and Scrutiny Management Committee meets to consider the called-in decision, whichever is the sooner.
- (g) Within 10 working days of the end of the call-in period a meeting of the Overview and Scrutiny Management Committee will consider the called-in decision. The Committee may:-
  - (i) refer the decision back to the Executive for reconsideration in the light of the recommendations from the Committee;
  - (ii) request that the decision be deferred until Overview and Scrutiny Management Committee or Panels have considered relevant issues and made recommendations to the Executive;



## **PART 4 RULES OF PROCEDURE**

### **5. OVERVIEW AND SCRUTINY PROCEDURE RULES**

- (iii) take no action in relation to the called-in decision but consider whether issues arising from the call-in need to be added to the work programme of an existing or new Overview and Scrutiny Panel;
- (iv) if, but only if (having taken the advice of the Monitoring Officer and/or the Chief Finance Officer), the Committee determines that the decision is wholly or partly outside the Budget and Policy Framework refer the matter, with any recommendations, to the Council after following the procedure in Rule 8 of the Budget and Policy Framework Procedure Rules. Only in this case is there a continuing bar on implementing the decision.
- (h) The Chief Executive will be notified of the outcome of the Overview and Scrutiny Committee deliberations under paragraph (k) and will inform the decision maker and the person responsible for implementation of the decision as soon as is reasonably practicable.
- (i) If the Overview and Scrutiny Management Committee refers the decision back to the Executive with a recommendation(s) the Executive may:-
  - (i) Accept the recommendation in full or in part and amend its decision accordingly;
  - (ii) Decide that further work needs to be undertaken and defer the item until this is completed. The Overview and Scrutiny Management Committee should be kept informed of the work as it progresses and be formally notified of when it is to be reconsidered;
  - (iii) Not accept the view of the Overview and Scrutiny Management Committee and confirm its original decision;
  - (iv) Refer the issue for discussion at the next appropriate Council meeting,
- (j) The Executive will respond in writing to the Overview and Scrutiny Management Committee's recommendations. If it decides not to follow OSMC's recommendation(s) ((i) (iii) above) it will clearly state its reasons for not doing so.

## **PART 4 RULES OF PROCEDURE**

### **5. OVERVIEW AND SCRUTINY PROCEDURE RULES**

- (k) The called in decision will be implemented following consideration at a meeting of the Cabinet or upon receipt of a written response from the Executive to the Chair of OSMC and/or the Proper Officer confirming the decision as there is no scope for further review or challenge.
- (l) References to days in this rule are to working days of the Council.
- (m) Key Decisions agreed to be urgent by the relevant Overview and Scrutiny Chair (as set out in rule 16 of the Access to Information Rules ) and Executive decisions which have previously been called in may not be the subject of the call-in procedure.
- (n) Day to day management and operational decisions taken by Officers are not subject to the call-in procedure.

### **10. Rights to Documents and Information**

- (a) In addition to their rights as Councillors, Members of Overview and Scrutiny Management Committee and Panels will have additional rights to access such documents and information in the possession of the Executive as is necessary for them to undertake any review or scrutiny of an action or decision or is relevant to any part of the work programme of the Committee or Panels, subject only to any common law or statutory rule of confidentiality (including those set out in rule 10.4 of the Access to Information Procedure Rules in Part 4) or any court order preventing access.
- (b) Notwithstanding 10(a) access to documents and information must be reasonable and proportionate to the matter under consideration.
- (c) The Chief Executive will determine whether or not access is to be given where there is controversy.
- (d) Nothing in these rules may prevent detailed liaison between the Mayor and/or the Executive and Overview and Scrutiny Management Committee or Panels.

## **PART 4 RULES OF PROCEDURE**

### **5. OVERVIEW AND SCRUTINY PROCEDURE RULES**

#### **11. Members and Officers Giving Evidence**

- (a) As well as reviewing documentation Overview and Scrutiny Management Committee and Panels may require the Mayor, Members of the Executive, Chairs and Vice-Chairs of Committees or Sub-Committees and employees of the Council to attend and give written or oral evidence.
- (b) In requiring the attendance of employees, the Overview and Scrutiny Management Committee or Panels must consider who is the most appropriate Officer to give the evidence, taking into account the Overview and Scrutiny protocol.
- (c) As far as possible questions to employees should be limited to questions of fact and explanation relating to policies, decisions or actions. Employees may explain the justification or objective of policies, decisions and actions and explain how administrative factors had an influence. Employees should not be asked to comment on the relative merits of politically contentious issues.
- (d) In asking questions of those giving evidence proceedings will be conducted fairly and all Members of the meeting will be given the opportunity to speak and ask questions.
- (e) All Attendees and Officers giving evidence to the meeting will be treated with courtesy and respect.

#### **12. Attendance by Others**

- (a) Individuals and representatives of organisations not part of the Council may be invited to give evidence to the Overview and Scrutiny Management Committee or Panels. They may be paid reasonable expenses and/or fees for so doing.

## **PART 4 RULES OF PROCEDURE**

### **5. OVERVIEW AND SCRUTINY PROCEDURE RULES**

- (b) The same principles of fairness, courtesy and respect as are set out in relation to the treatment of employees will apply to others giving evidence.

#### **13. Other Enquiries**

- (a) Overview and Scrutiny Management Committee may conduct or commission reasonable enquiries or research, including the appointment of advisors, going on site and other fact finding visits, conduct of surveys, public meetings and other consultation. Reasonable expenses incurred in such exercises may be paid.
- (b) Innovation in the work of Overview and Scrutiny Management Committee and Panels is encouraged.

#### **14. Whipping**

Whipping will generally not be appropriate at meetings of Overview and Scrutiny Management Committee or Panels.

#### **15. Matters within the Terms of Reference of More than One Overview and Scrutiny Panel**

- (a) Where, in the opinion of the Chair of an Overview and Scrutiny Panel, the matters under discussion are relevant to matters referred to other Scrutiny Panel(s) he/she shall consider to what extent to invite the participation of the Chair and/or other Members of the other Panel in the deliberations.
- (b) Where required by a Panel, the Chair of an Overview and Scrutiny Panel will report to that Panel making the request, the extent to which consideration has been given under rule 15(a).
- (c) Where there is uncertainty over which Panel should take the lead in reviewing an issue that falls within the remit of more than one Overview and Scrutiny Panel, the matter shall be referred to the OMSC for determination.

## **PART 4 RULES OF PROCEDURE**

### **5. OVERVIEW AND SCRUTINY PROCEDURE RULES**

#### **16. Reports of Overview and Scrutiny Management Committee or Panels**

- (a) Any Overview and Scrutiny Panel may, at any time, at its own request or in response to a request from the Overview and Scrutiny Management Committee, submit a progress, interim, final or follow-up report on any matter within its terms of reference, to the Management Committee.
- (b) Overview and Scrutiny Management Committee may refer any report from an Overview and Scrutiny Panel back to that Panel for any reason or refer it on, along with any additional recommendations to the Executive, the Full Council or its Committees, Committees and Sub-Committees, the Monitoring Officer and/or the Chief Finance Officer.
- (c) Any Member(s) of any Overview and Scrutiny Management Committee or Panel who has/have attended at least 75% of meetings of that Committee or Sub-Committee of which an issue was discussed may submit a minority report to the Committee for consideration.
- (d) Where the Chair or Vice-Chair of Overview and Scrutiny Management Committee agrees, for reasons which will be set out in the report, an Overview and Scrutiny Panel may refer a matter straight to the Full Council, Executive, Monitoring Officer and/or Chief Finance Officer directly, or where appropriate external organisations e.g. NHS Trust.
- (e) Reports are referred by delivering them to the Chief Executive.

#### **17. Consideration of Reports of Overview and Scrutiny Management Committee or Panels**

- (a) Reports from Overview and Scrutiny Management Committee received by the Proper Officer will be placed on the next available agenda of the Executive, Full Council, Committee or Sub-Committee, subject only to consultation between the Proper Officer and the Mayor or relevant Chair to avoid impractical agendas.

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- (b) Where the report relates to future decisions of the Executive, Full Council, Committee or Sub-Committee, it shall inform the taking of that decision and the decision will record what consideration was given to that report.
- (c) If a report referred to the Executive has not been considered by the Executive within 6 weeks of referral, the Chief Executive will place the report on the next available Full Council agenda and the Full Council will consider the report and make recommendations to the Executive.
- (d) Where the report referred to the Executive requires, the Executive must respond to the recommendations, within a timetable laid down by the report. The response will be to the Overview and Scrutiny Management Committee or Panel which produced the report. If the response from the Executive is to decline to follow recommendations in the report, it shall give the reasons.
- (e) Where the recommendations are published by Overview and Scrutiny, the Executive or Authority must publish its response within two months of receiving the notification from Scrutiny. Any exempt or confidential information must be excluded from publication but should be summarised if this would make the response incomprehensible or misleading.

#### **18. Matters not within the Remit of Overview and Scrutiny Management Committee or Panel**

The following matters should not normally be considered by Overview and Scrutiny Management Committee or Panels:-

- (i) Day to day managerial and operational decisions by Officers;
- (ii) Any matter previously agreed to be an urgent decision by the Chair of the relevant Overview and Scrutiny Management Committee or Panel;
- (iii) An Executive decision which has already been the subject of consideration under the call-in procedure;

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- (iv) Regulatory or quasi judicial decisions of the Full Council its Committees or Sub-Committees or the Executive;
- (v) Matters relating to the conduct of individual Members or Officers which are to be dealt with under the ethical framework established in accordance with Section 28 of the Localism Act 2011 and the current disciplinary rules and procedure, respectively;
- (vi) Urgent decisions under Rule 16 of the Access to Information Rules or Rule 5 of the Budget and Policy Framework Procedure Rules.

### **19. Best Value, Service Reviews and Inspections**

The Overview and Scrutiny Management Committee will:-

- (a) consider the extent to which it, and any Panels established by it, should be involved in Best Value Reviews;
- (b) be consulted by the Executive in formulating the programme of Best Value Reviews;
- (c) take into account the programme of inspections, Best Value and Service Reviews and the outcome of any completed inspections or Reviews in planning and carrying out its functions.

### **20. Conflicts of Interest**

- (a) Members and co-opted Members of Overview and Scrutiny Management Committee or Panels will not review a decision which they were responsible or jointly responsible for making.
- (b) The rules relating to declaration of interests set out in the Code of Conduct for Members will apply to Overview and Scrutiny Management Committee and Panels.
- (c) If an interest will substantially affect the ability of a Member to participate in the work of the Overview and Scrutiny Committee or Panel, the Member will withdraw from the review or meeting.

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#### **21. Key Decisions Not Taken in Accordance with The Access to Information Procedure Rules**

- (a) If the Overview and Scrutiny Management Committee or a Panel thinks that a key decision has been taken which was not:-
  - (i) included in the Forward Plan set out in Rule 14 of the Access to Information Procedure Rules or, in any case, given 28 clear calendar days' notice prior to being taken; or
  - (ii) the subject of the general exception procedure set out in Rule 15 of the Access to Information Procedure Rules; or
  - (iii) the subject of an agreement with a relevant Overview and Scrutiny Chair, under Rule 16 of the Access to Information Procedure Rules;

that Committee or Panel may require the Executive to submit a report to the Full Council within such reasonable time as is specified.

- (b) The power to require a report is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by resolution passed at a meeting of the relevant Overview and Scrutiny Committee or when requested to do so by any 5 Members of the Overview and Scrutiny Management Committee or relevant Overview and Scrutiny Panel.

#### **(c) Executive's Report to Full Council**

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

#### **22. Annual Report on Special Urgency Decisions**

In any event the Mayor will submit an annual report to the Full Council at its last ordinary meeting of each Municipal Year on the Executive decisions taken in the circumstances set out in Rule 16 of the Access to Information Procedure Rules (Special Urgency) in the preceding twelve 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.



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#### **23. Update Reports to Full Council**

- (a) Overview and Scrutiny Management Committee will take an annual report to the Full Council and the Executive, giving such details of their work and proposed work as the Committee believes would assist the Full Council or the Executive.
  
- (b) The Chair of the Overview and Scrutiny Management Committee will take a half yearly update report to Full Council to provide an overview of the work being undertaken by Overview and Scrutiny and progress against any priorities set out in the Annual Report.

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**PART 4 – RULES OF PROCEDURE**  
**6. FINANCIAL PROCEDURE RULES**



**Doncaster  
Council**

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**DONCASTER  
COUNCIL  
FINANCIAL  
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## **PART 4 – RULES OF PROCEDURE**

### **6. FINANCIAL PROCEDURE RULES**

## **INTRODUCTION**

- 1.1 These **Financial Procedure Rules** form part of the overall control framework within which Doncaster Council operates. They aim to facilitate effective service delivery by setting out best practice for the administration of all financial matters throughout the Council, ensuring a high quality of financial information and enabling decision making. They enable the Council to conduct its business efficiently and operate an appropriate level of public accountability.
- 1.2 The Constitution defines the rules governing the procedures of the Council including responsibility for functions, Contract Procedure Rules and these Financial Procedure Rules.
- 1.3 The Constitution defines the framework within which the powers to make decisions, take action etc. are delegated to the appropriate level in the organisation. In particular the Constitution: -
  - requires all Directors to act within the terms of these Rules in the exercise of their delegated powers;
  - empowers the Chief Financial Officer (CFO) to act as the Proper Officer under Section 114 of the Local Government Finance Act 1988 (as amended) and the Local Government Act 2003;
  - empowers the CFO to exercise the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972 (as amended).
- 1.4 The Contract Procedure Rules define the correct procedures to be followed when the Council enters into any contractual arrangement and should be read in conjunction with these Rules.
- 1.5 The Finance Manual is a comprehensive document detailing all aspects of financial systems and procedures and is designed for use on a day to day basis by staff involved in any aspect of financial administration. Any new or revised instructions on financial matters issued by the CFO will be incorporated into the Finance Manual.

### **Application of the Rules**

- 2.1 These rules apply across all parts of the Council. They govern management of financial resources and assets under the Council's direct control but also extend to the Council's partnerships, its subsidiaries, its associates, joint ventures, joint operations and any other arrangements in which the Council has an interest. This is to the extent that they are capable of being imposed by virtue of the Council's control or influence and would not be detrimental to the interests of the Council. Doncaster Schools have their own financial procedure rules, approved by governors, which are aligned to those of the Council.

## **PART 4 – RULES OF PROCEDURE**

### **6. FINANCIAL PROCEDURE RULES**

- 2.2 All members and staff have a general responsibility for taking reasonable action to provide for the security of the assets, funds and resources under their control, and for ensuring that the use of these resources is legal, is properly authorised and provides value for money.

#### **Maintaining the Rules**

- 3.1 The Council operates a system of managerial and financial control whereby the CFO has overall responsibility for the proper management of the finances of the Council as a whole but the responsibility for the day-to-day financial control and administration in Directorates and other corporate project and programme work is devolved to the relevant Director.
- 3.2 The overall responsibilities of the CFO in respect of these rules are therefore to:
- maintain these Rules and submit any additions or changes necessary to Council for approval in consultation with the MO (Monitoring Officer) and Chief Executive;
  - issue explanatory advice and guidance to underpin these Rules as necessary. Where such advice and guidance is issued, Members, officers and others acting on behalf of the Council are required to comply with the general provisions of these Rules;
  - require any officer to take any action deemed necessary (as is proportionate and appropriate) to ensure proper compliance with these Rules;
  - report, where appropriate, any breaches of these Rules to Members;
  - report all waivers of Rules to Members approved by the CFO during the course of any financial year which the CFO has delegated authority to determine.
- 3.3 Should any uncertainty or dispute arise pursuant to these Rules, the matter must be referred to the CFO for interpretation and/or arbitration.

#### **Non-Compliance with the Rules**

- 4.1 Failure to comply with any part of these Rules may constitute misconduct and lead to formal disciplinary action. Non-compliance will be referred for management action, to be dealt with by the relevant Director in most instances. Serious breaches will be referred to the CFO who may require remedial action to be taken by the Director.
- 4.2 Any waivers or non-compliance will be reported to Audit Committee on a 6-monthly basis.

## **PART 4 – RULES OF PROCEDURE**

### **6. FINANCIAL PROCEDURE RULES**

#### **General Principles of Financial Management**

5.1 The financial management staff report to the CFO and provide day to day support to all Directorates. They are able to provide assistance to any member or officer regarding financial management. The general principles of financial management operated in the Council follow best practice guidance and aim to ensure that: -

- roles and responsibilities are clearly understood;
- there is a system of financial control which ensures that transactions are authorised appropriately, with adequate separation of duties;
- financial transactions are recorded properly, with a clear audit trail;
- clear, up-to-date and accurate position reports will be provided to Directors and Cabinet to properly monitor the financial standing of the Council;
- risks are managed on an ongoing basis and, for significant projects with financial impact, risks are registered and managed;
- the Council's Enterprise Resource Planning (ERP) system and other key financial systems and processes are documented and business continuity plans in place to maintain effective financial administration at all times;
- staff are aware of and comply in spirit and substance with the Council's anti-fraud and corruption policy.



## **PART 4 – RULES OF PROCEDURE**

### **6. FINANCIAL PROCEDURE RULES**

# **FINANCIAL PROCEDURE RULE A: FINANCIAL MANAGEMENT – RESPONSIBILITIES**

## **Responsibilities of the Full Council**

These are detailed in the Constitution at Article 3; the financial responsibilities are: -

- A.1 Setting the Budget and Policy Framework within which the Cabinet will operate.
- A.2 Approving any budgetary decision that causes the total expenditure financed from Council Tax, grants and reserves to be increased above that approved.
- A.3 Approving the Treasury Management policy statement and an annual Investment strategy for the Council's cash balances.

## **Responsibilities of the Elected Mayor and Cabinet**

These are detailed in the Constitution; the financial responsibilities of the Elected Mayor and Cabinet are: -

- A.4 Proposing the Budget and Policy Framework and Capital Programme to Council and for discharging executive functions in accordance with the Budget and Policy Framework agreed by Council.
- A.5 Approving the Strategic Risk Management policy statement and strategy.
- A.6 The Elected Mayor determines the Scheme of Delegation which will govern the framework for financial decision-making and budgetary responsibility, except where these financial procedure rules impose other responsibilities or arrangements. Executive decisions can be delegated by the Elected Mayor, to a committee of Cabinet, an individual cabinet member, a member of staff, or a joint committee. Where the scheme of delegation established by the Elected Mayor is silent as to where responsibility for a budget lies, the budget holder will be the officer with responsibility for the relevant service, policy or project.

## **Responsibilities of Committees**

**Audit Committee is responsible for: -**

- A.7 Approving the Council's Annual Governance Statement.
- A.8 Considering audit matters for recommendation to Cabinet including the Council's anti-fraud and corruption policy.

## **PART 4 – RULES OF PROCEDURE**

### **6. FINANCIAL PROCEDURE RULES**

#### **Overview and Scrutiny Management Committee's financial responsibilities include: -**

- A.9 Scrutinising executive decisions before or after they have been implemented and for holding the Executive to account.
- A.10 Making recommendations on future policy options and for reviewing the general policy, budget and service delivery of the Council.
- A.11 Providing a response within 4 weeks to the Elected Mayor's budget proposal.

#### **Responsibilities of Officers**

- A.12 Officer responsibilities for the overall management of the Council's financial affairs are variously set out by legislation, the provisions of the Council's Constitution and the Council's Scheme of Delegation.
- A.13 Certain legislation requires the Council to designate particular officers as the 'proper officer' for the performance of certain functions. 'Proper Officer' functions include the responsibilities of the Head of Paid Service (HPS), the Monitoring Officer (MO) and Chief Financial Officer (CFO) in managing the overall financial affairs of the Council. Formal recognition is also given to the particular responsibilities and functions of the Head of Internal Audit (HIA) at the Council in accordance with best practice advice and guidance.

#### **Chief Executive**

The Head of Paid Service (HPS) is designated as the Chief Executive. The financial responsibilities of the Chief Executive include: -

- A.14 Advising the Elected Mayor on budget strategies as linked to the Corporate Plan and Council Policies, including the preparation of a medium-term financial strategy.
- A.15 Advising the Elected Mayor in preparing a capital programme and establishing capital budgets for identified projects.
- A.16 Establishing protocols to ensure that those with Executive decision-making powers consult with relevant officers before taking a decision within their delegated authority. In doing so, the individual officer or Member must take account of legal, financial and human resource implications, other internal policies and any cross-cutting issues where relevant.
- A.17 Ensuring that there is a proper scheme of delegation, which clarifies responsibilities from the Elected Mayor downwards and the skills to carry out those responsibilities. This will include developing and maintaining a resource allocation process that ensures due consideration of the Council's Budget and Policy Framework.
- A.18 Establishing arrangements for the ongoing regular review, assessment and assurance of the effectiveness of the Council's internal control arrangements and for annually preparing an Annual Governance Statement.

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### **6. FINANCIAL PROCEDURE RULES**

#### **Monitoring Officer (MO)**

The MO is responsible for: -

- A.19 Promoting and maintaining high standards of conduct including those of financial administration.
- A.20 Reporting any actual or potential breaches of the law or maladministration to Council and/or to the Cabinet.
- A.21 Ensuring that procedures for recording and reporting key decisions are operating effectively and that executive decisions and the reasons for them are made public. The MO must also ensure that all Members are aware of key decisions made by those with Executive decision-making powers.
- A.22 Advising all Members and employees about who has authority to take a particular decision.
- A.23 Advising (in conjunction with the CFO), whether a decision is likely to be considered contrary or not wholly in accordance with the Budget and Policy Framework (see rule A.27 for examples of 'contrary to the budget').

#### **Chief Financial Officer (CFO)**

A.24 The functions and responsibilities of the CFO are directed in the first instance by legislation that imposes statutory duties on the CFO for the proper management, financial administration and stewardship of Council assets and the fiduciary interests of current and future local tax payers. These responsibilities include: -

- proper administration of the council's financial affairs, systems and procedures;
- providing advice to the political and appointed Executive, Overview and Scrutiny and Council on financial and economic factors likely to influence the budget and policy framework. This may also include legal requirements, medium-term planning prospects, available resources, borrowing requirements, spending pressures, value for money and other relevant government guidelines;
- reporting on the adequacy of the Council's reserves and the robustness of budgets to the Council meeting, which approves the Elected Mayor's budget and Council Tax proposal;
- setting and monitoring compliance with financial management standards, accounting standards and policies;
- ensuring proper professional practices are adhered to in relation to the standards, performance and development of all finance staff;
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- providing high quality financial information to decision makers and preparing the annual statement of accounts in accordance with CIPFA's Accounting Code of Practice;
- preparing the revenue budget and capital programme;

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### **6. FINANCIAL PROCEDURE RULES**

- treasury management and insurance;
- ensuring adherence to the CPR, promoting value for money through compliant and best practice procurement processes;
- in exceptional circumstances personally suspending these Financial Procedure Rules, where to do so appears to be in the best interests of the Council and in its financial interests.

A.25 Section 114 of the Local Government Finance Act 1988 requires the CFO to report to the full Council, Executive and external auditor if the Council or one of its employees: -

- has made, or is about to make, a decision which involves or would involve incurring expenditure which is unlawful;
- has taken, or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Council;
- is about to enter an item of account the entry of which is unlawful.

It is the duty of the CFO, in preparing the report to consult with the MO and the Chief Executive as far as practicable.

A.26 Section 114 of the 1988 Act also requires: -

- the CFO to nominate a properly qualified member of staff to deputise should the CFO be unable to perform the duties under section 114 personally;
- the Council to provide the CFO with sufficient staff, accommodation and other resources, including legal advice where this is necessary, to carry out the duties under section 114 of the 1988 Local Government Finance Act.

A.27 In addition, the CFO (together with the MO) is responsible for advising Members as to whether a decision is likely to be considered contrary or not wholly in accordance with the Budget. Actions that may be contrary to the Budget include: -

- initiating new policies that may impact on agreed budgetary provisions and resource allocations;
- committing expenditure in future years over and above the Council's Budget;
- causing the total expenditure financed from Council Tax, grants and corporately held reserves to increase, or to increase by more than a specified amount;
- incurring interdepartmental transfers above the virement limits set out in these Rules.

A.28 The CFO can choose to delegate day-to-day responsibilities to an appropriate representative(s). Where this is the case, the delegation and officer responsibilities must be clearly documented and be kept under regular review by the CFO.

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### **6. FINANCIAL PROCEDURE RULES**

#### **The Head of Internal Audit (HIA)**

- A.29 The HIA is designated by the CFO and plays a key role in providing assurance to the Members, the CFO, the HPS and Council's Management Team about the probity, practical deployment and effectiveness of financial management at the Council.
- A.30 The HIA has rights of access to information and data held by officers or Members of the Council at all reasonable times and is responsible for the overall co-ordination and deployment of internal audit resources at the Council.
- A.31 The HIA is responsible for reporting on any relevant matter of concern to senior management and Members of the Council outside normal line management arrangements to protect the interests of the Council and/or local tax payers.

#### **Responsibilities of Directors**

- A.32 Whilst the CFO has overall responsibility for the finances of the Council, Directors are responsible for ensuring the effective discharge of the day-to-day management of their Directorate finances and/or the finances of any projects or programmes for which they are responsible. It is the responsibility of Directors to make appropriate arrangements for the discharging of their financial responsibilities by Assistant Directors and Managers within their Directorate, delegating authority to manage budgets to an appropriate level of management and thereby creating a budget holder structure. Directors should review the performance of managers in delivering their budget holder role.

Directors, Assistant Directors and Managers responsibilities include: -

- A.33 Operating sound financial management of their allocated budget and only committing the Council to expenditure where there is sufficient funding available;
- A.34 Promoting and ensuring compliance with the financial management standards and practices set by the CFO in their Directorates and/or any projects or programmes for which they are responsible;
- A.35 Consulting with the CFO on any matter which is liable to materially affect the resources of the Council. This must be done before any commitment is incurred, or a report made to a Portfolio Holder or to a Committee for decision;
- A.36 Ensuring that Portfolio Holders are advised of the financial implications of all proposals and that these have been agreed by the CFO or their nominated representative;
- A.37 Reporting suspected fraud and irregularities to the Police or external agencies in consultation with the CFO;
- A.38 Safeguarding all assets and information used in their day-to-day activities within the Directorate.

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### **6. FINANCIAL PROCEDURE RULES**

# **FINANCIAL PROCEDURE RULE B: FINANCIAL PLANNING AND BUDGETING**

## **Budget Preparation and Approval**

- B.1 The annual revenue budget (including medium-term financial strategy) proposed by the Elected Mayor will be agreed by Cabinet and then put forward for approval to Council. Council may amend the budget strategy or ask the Elected Mayor to reconsider it before approving it, as detailed in the Constitution (part 4, section 3).
- B.2 The CFO will report on the robustness of budgets and the adequacy of Council reserves to the Council meeting which approves the Elected Mayor's budget and Council Tax proposal.
- B.3 The multi-year capital programme proposed by the Elected Mayor will be agreed by Cabinet and then put forward for approval to Council annually. The annual review will update the multi-year capital programme for any new additions and revisions to the approved budgets. The CFO will advise on the affordability of capital investment plans and propose prudential indicators for the approval of Council. Relevant approval is required before a project can commence or commit to capital spend.

## **Budget Management and Monitoring**

- B.4 Directors and budget holders will control income and expenditure within their area, taking account of financial information provided by the CFO. The Chief Executive will ensure that the Management Team monitor and control expenditure against approved budgets and address any problems of overspending or resource re-allocation.
- B.5 A Budget Holder may only authorise expenditure from budgets under their direct control. Throughout the financial year each Budget Holder shall monitor income (including any grants) and expenditure against those specific budgets for which they are responsible. Budget Holders shall supply accurate and timely budget monitoring information to the CFO, as and when required.
- B.6 Directors should report on variances within their own budget responsibility areas and should formulate and promptly implement, action plans in respect of any significant variances. They should also take any action necessary to avoid exceeding their budget allocation and must alert the CFO to any problems at the earliest opportunity.
- B.7 The latest forecast budget position will be reported regularly to Directors and Cabinet.
- B.8 The CFO is responsible for agreeing the system and methodology of all recharges.

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### **6. FINANCIAL PROCEDURE RULES**

- B.9 The CFO is responsible for agreeing any in-year additions to the capital programme, including any additional resources for approved projects. Following CFO agreement and before any commitment to spend, a project specific report in line with key decision rules, is required to approve the capital project for inclusion in the capital programme.
- B.10 The CFO will report any significant deviations from expectations for prudential indicators through regular reports to Cabinet. The key objectives of the prudential indicators are to ensure that capital investment plans are affordable, prudent and sustainable.

#### **Virements**

- B.11 Virement is the transfer of resources from one budget heading to another, including movement between any earmarked reserves.
- B.12 Virement is not permitted from certain budget heads, other than by the CFO, as this impacts on the Council's ability to fund non-discretionary expenditure. These excluded heads are as follows, or as may be determined from time to time by the CFO: -
- Capital Charges and Financing;
  - Support Services Recharges;
  - Administration and Building Recharges.
- B.13 Directors are responsible for agreeing in-year virements within their Directorate budgets but cannot agree virements within their Directorate for budgets funded by: -
- Corporate Capital Resources including prudential borrowing;
  - Earmarked Reserves.
- B.14 Proposals for virement between Directorates must be approved by the CFO, up to £250,000 and key decision approval is required for virements greater than £250,000. The value of the virement is defined as the gross annual budget.

#### **Fees and Charges Approval**

- B.15 At the annual budget meeting Council will approve the annual percentage change for all discretionary fees & charges for the forthcoming financial year as proposed by Cabinet. Council will also agree any exceptions which must be agreed by the relevant Portfolio Holder prior to the annual budget meeting. The proposals will be based on advice from the CFO taking into consideration inflation, market forces and the Council's overall financial position.

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- B.16 Any new fees and charges proposed within the financial year or any changes to existing fees and charges, for which the estimated income is below the key decision threshold, will be approved by the CFO in consultation with the relevant Portfolio Holder and reported to Cabinet in the quarterly monitoring report. Any new fees and charges proposed within the financial year or any changes to existing fees and charges, for which the estimated income is above the key decision threshold, will be approved by Cabinet in a specific report.
- B.17 Some fees and charges are set by legislation and therefore the above paragraphs (B.15 and B.16) do not apply.

#### **Treatment of Year-End Under/Overspends**

- B.18 Any under / overspend at the year-end on the Directorate revenue budget will not be carried forward to the following financial year.
- B.19 The CFO may approve a budget carry forward of a ring-fenced grant or where a grant has conditions or expectations attached, where the related expenditure is not expected to be incurred in the current financial year. The CFO may also approve a budget carry forward where not carrying the budget forward would adversely affect the Council's budget position. Cabinet will approve all other budget carry forward requests through the outturn report, taking advice from the CFO and Chief Executive.



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**6. FINANCIAL PROCEDURE RULES**

## **FINANCIAL PROCEDURE RULE C: RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **Introduction**

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

### **Risk Management**

- C.2 Cabinet is responsible for approving the Council's Strategic Risk management policy and to promote a culture of risk management awareness throughout the Council, which is monitored by the Audit Committee.

### **Insurance**

- C.3 The CFO is responsible for ensuring that proper insurance exists where appropriate. Directors are responsible for updating and approving insurance schedules for the CFO. Directors are also responsible for providing timely and accurate information to the CFO in relation to any insurance claims. The CFO is responsible for advising the Cabinet on proper insurance cover where appropriate.

### **Internal Control**

- C.4 'Internal control' refers to the systems of control devised by management which must: -
- facilitate the effective exercise of the Council's functions and the achievement of the Council's aims and objectives;
  - ensure that the financial and operational management of the Council is effective; and
  - include effective arrangements for the management of risk.
- C.5 The HIA is responsible for completing an assessment and forming an opinion on the overall adequacy and effectiveness of the Council's governance, risk management and control arrangements via an annual report to Audit Committee.
- C.6 The CFO is responsible for annually preparing an Annual Governance Statement to the requirements of the Accounts and Audit Regulations 2015 (as amended).

## **PART 4 – RULES OF PROCEDURE**

### **6. FINANCIAL PROCEDURE RULES**

- C.7 It is the responsibility of Directors to maintain adequate internal control arrangements in their service areas and establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial and service performance targets.

#### **Audit Requirements**

- C.8 The Accounts and Audit Regulations 2015 require every local authority to maintain an adequate and effective internal audit of its accounts and supporting systems. The Council's internal audit function will fulfil this requirement and will do so in accordance with the approved Audit Charter and the United Kingdom Public Sector Internal Audit Standards (PSIAS). These require: -
- that internal auditors are given access at all reasonable times for requests to access premises, personnel, documents and assets that the auditors consider necessary for the discharge of their official duties;
  - that auditors are provided with any information and explanations that they seek in the course of their work;
  - audit reports and recommendations are responded to within the timescales determined by the HIA;
  - that any agreed actions arising from audit recommendations are carried out within timescales agreed between both Management and Internal Audit. The relevant Director must ensure that sufficient resources are in place to implement the agreed management actions and will be required to account to the Council's Audit Committee where such actions are not achieved; and
  - that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Head of Internal Audit prior to implementation.
- C.9 External Auditors shall be appointed to the Council to conduct and report on, the external audit of the Council in accordance with the relevant statutory code of audit practice.
- C.10 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies that have statutory rights of access.

#### **Preventing Fraud and Corruption**

- C.11 The Chief Executive has overall responsibility for the maintenance and operation of this framework. The Chief Executive is supported in this by the Director of Corporate Resources, Assistant Director of Finance, Assistant Director of Human Resources and Communications, Assistant Director of Legal and Democratic Services and the HIA.
- C.12 This policy and strategy shall be subject to periodic monitoring and updating with the intention of ensuring that the policy remains relevant.

## **PART 4 – RULES OF PROCEDURE**

### **6. FINANCIAL PROCEDURE RULES**

- C.13 An Annual Fraud Report is produced showing the outcomes of the Council's anti-fraud work and a counter fraud plan is included within the annual audit plan.
- C.14 Members of staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- C.15 Directors must notify the CFO, via the HIA, immediately of any suspected fraud, irregularity, improper use or misappropriation of the Council's property or resources. Pending investigation and reporting, the Director, in consultation with the CFO should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration. Directors are responsible for reporting suspected fraud and irregularities to the Police or external agencies, in consultation with the CFO.

### **Asset Management**

- C.16 The Council holds tangible assets in the form of property, vehicles, equipment, electronic devices, furniture and other items (e.g. share certificates) worth many millions of pounds. It also makes use of other non-tangible assets such as intellectual property. It is essential to the financial health and well-being of the Council that these assets are safeguarded and used efficiently and effectively in supporting the delivery of Council services. All staff are responsible for safeguarding the assets and information used in their day to day activities.
- C.17 The Assistant Director of Legal and Democratic Services shall have the custody of all title deeds under secure arrangements, maintaining a separate register of all such deeds. The Property Officer (responsible for the Council's properties) will maintain an up-to-date register of all Council land and buildings.
- C.18 The CFO shall ensure that a full and accurate register of all Council fixed assets is maintained, in accordance with good practice standards and the relevant Codes of Practice. The Property Officer is responsible for arranging the valuation of all land and buildings as necessary to meet the accounting requirements of the CFO.
- C.19 In the absence of any specific conditions or exemptions agreed by Cabinet and these FPR, the following have authority to undertake a review of property charges. If, in each case, the revised rent, licence fees, easement or wayleave payment or compensation claim does not exceed £250,000 per annum, the Property Officer may approve. In line with the revenue key decision threshold, if it is over £250,000 per annum, the approval of Cabinet is required.
- C.20 In respect of disposals of land and property (which includes the granting of a lease): -
- processes followed should be robust and transparent and in accordance with current legislation;
  - in all cases of planned disposal of land or property, the Property Officer, the Assistant Director of Legal and Democratic Services and the CFO must be consulted.

## **PART 4 – RULES OF PROCEDURE**

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- In line with the capital key decision threshold, where the estimated disposal value is less than £1,000,000 the Property Officer, having taken financial and legal advice, may arrange for the disposal of land or property. Where the estimated disposal value of individual property assets is equal to or greater than £1,000,000, a key decision is required;
- in respect of disposal at less than Best Consideration where the estimated disposal value would otherwise have been at less than £250,000 (revenue key decision limit), the Property Officer may arrange for the disposal of land or property;
- in respect of disposal at less than the Best Consideration where the estimated disposal value would otherwise have been at or above £250,000 (revenue key decision limit), the Property Officer shall prepare a report to Cabinet, requesting approval to proceed with the disposal in accordance with the relevant legislation (Circular 06/03: Local Government Act 1972 general disposal consent (England) 2003);
- all arrangements for the acquisition and disposal of land and buildings shall be in accordance with Council Asset Management Policy and be conducted by the Property Officer, including all negotiations and the preparation and certification of valuation certificates.

In respect of the acquisition of land and property: -

- where budget provision for an acquisition exists within the total Council budget, the Property Officer may approve a purchase of land or property.

### **Leasing Agreements**

- C.21 The Property Officer is responsible for the negotiation of terms and conditions and authorising any leasing of land and property assets to or from the Council, and maintaining a complete register of land and property leases.
- C.22 The Council will not lease in or out any assets other than land and property except where the CFO determines that it is in the best interests of the Council. In those cases, the CFO is responsible for the negotiation of terms and conditions and authorising any leasing of assets to or from the Council, and maintaining a register of such leases.
- C.23 Directors are responsible for adhering to the terms and conditions for assets (excluding land and property) in their service acquired under a lease agreement, particularly in relation to wear and tear and residual condition of the asset at the end of the leasing period.
- C.24 Any assets subject to a leasing agreement must not be disposed of without the prior consent of the CFO who shall be responsible for terminating the lease.

## **PART 4 – RULES OF PROCEDURE**

### **6. FINANCIAL PROCEDURE RULES**

C.25 A lease is considered to be a disposal Under Section 123 of the Local Government Act 1972 and the granting of a lease at less than best consideration is therefore dealt with as set out above in C.20.

#### **Inventory**

C.25 Directors are responsible for the care, custody and recording of the stocks, stores and equipment in their respective service areas; ensuring that they are kept securely, protected from loss, theft and damage etc.

C.26 Directors are responsible for: -

- only holding stocks, stores or equipment that are required to meet their service's reasonable requirements;
- maintaining local inventories recording adequate descriptions of all furniture, fittings, equipment, plant and machinery above £1,000 together with all attractive and portable items below this figure; reviewing annually the stocks, stores or equipment required for their service areas; and
- review and write-off promptly obsolete items of stocks, stores or equipment.

C.27 Directors shall provide the CFO with the information in relation to all inventories that is required for accounting, costing and financial records.

#### **Treasury Management**

C.28 The Council will have due regard to all recognised codes of practice and guidance issued relating to its Treasury Management operations. The Council defines its treasury management activities as: -

"The management of the organisation's investments and cash flows, its banking, money market and capital market transactions; the effective control of risks associated with those activities, and the pursuit of optimum performance consistent with those risks."

C.29 The Council will create and maintain the following: -

- a Treasury Management strategy statement, approved by Council, stating the policies and objectives of its treasury management activities;
- suitable treasury management practices, setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities; and
- Treasury Management Prudential Indicators as part of the Council's budget and policy framework.

**PART 4 – RULES OF PROCEDURE**  
**6. FINANCIAL PROCEDURE RULES**

- C.30 The Cabinet will receive regular reports on the treasury management activities which will include as a minimum an annual strategy report in advance of the forthcoming financial year and an annual report detailing the performance of actual activity six months after the financial year.
  
- C.31 The Council delegates responsibility for all decisions, execution and administration of its treasury management activities to the CFO. The CFO will enter into any borrowing, investment and guarantees on behalf of the Council.

**PART 4 – RULES OF PROCEDURE**  
**6. FINANCIAL PROCEDURE RULES**

## **FINANCIAL PROCEDURE RULE D: SYSTEMS AND PROCEDURES**

### **General**

- D.1 The CFO is responsible for the operation of the Council's Enterprise Resource Planning ('ERP') system, the form of accounts and the supporting financial records.
- D.2 Any new or changes to current systems containing financial transactions must be approved by the CFO prior to procurement and/or implementation. The CFO can request changes to be made to Directorate systems, where they do not provide the necessary financial data required. Suitable and appropriate business continuity arrangements should be established, tested and kept up to-date in respect of all important financial systems.
- D.3 Directors must ensure that information is processed in accordance with data protection legislation. Directors must ensure that staff are aware of their responsibilities under the Data Protection Act 2018, the General Data Protection Regulation, the Freedom of Information Act, the Regulation of Investigatory Powers Act and any other Council policies and guidance relating to the use of information and the use and procurement of I.T. systems.

### **Scheme of Authorisation**

- D.4 It is the responsibility of Directors, in consultation with the CFO, to ensure that a proper Scheme of Authorisation has been established within their area that is suitably documented and is operating effectively. The Scheme of Authorisation should identify staff authorised to act on the Director's behalf in income collection and placing orders/raising requisitions and making payments, together with the limits of their authority. These records should be amended promptly where changes in circumstances or personnel take place and reviewed annually to ensure that they are kept up-to-date.

### **Income**

- D.5 Directors are responsible for ensuring that all income due to the Council is identified and collected for the services provided by their Directorate. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cash flow and also avoids the time and cost of administering and collecting debts.
- D.6 Directors are responsible for the safeguarding of any income collected prior to banking. All relevant details must be forwarded to the CFO to allocate the income to the correct budgets.
- D.7 Any changes to fees and charges must be in accordance with rule B.16.

## **PART 4 – RULES OF PROCEDURE**

### **6. FINANCIAL PROCEDURE RULES**

- D.8 In order to comply with the Money Laundering Regulations 2017, the Council will not accept cash income for the purchase of goods with a value greater than the sterling equivalent of €15,000 (approx. £11,000). This also applies where payment is accepted over a number of instalments and the total value of all instalments exceeds €15,000. If goods are sold exceeding this value, a payment method other than cash is required, e.g. electronic bank transfer.
- D.9 Only the CFO has the legal authority to write-off bad debts. In order to do this, the following arrangements are in place: -
- The write-off of Bad or doubtful debts below £250,000 can be authorised by the CFO, who may delegate responsibilities as necessary for smaller items;
  - The CFO will consult with the Elected Mayor before authorising the writing-off of debts of £250,000 or over.

In all cases, debts will not be written-off unless processes for collection have proved fruitless. All requests for write-offs will be made by the relevant Director with due explanation for non-collection. All write-offs made will be properly recorded and such records retained.

### **Banking Arrangements**

- D.10 The CFO is responsible for all matters relating to the establishment, varying and closing of bank accounts for the Council and for approving all standing orders, direct debits or other electronic payment methods from the Council's bank accounts. This includes imprest and petty cash accounts and debit/credit cards.

### **Ordering and Paying for Works, Goods and Services**

- D.11 The CFO is responsible for approving the form of orders and associated terms and conditions.
- D.12 Directors should identify and maintain a list of designated officers to authorise orders.
- D.13 Directors should ensure that the following key controls are complied with: -
- works, goods and services are procured in accordance with the Contract Procedure Rules (CPR) and by designated officers;
  - designated officers ensure that there is uncommitted budget before placing an order;
  - works, goods and services received are checked to ensure they are in accordance with the order;



## **PART 4 – RULES OF PROCEDURE**

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- there is proper separation of duties between staff responsible for ordering, receiving, checking works, services and goods and authorising invoices for payment;
- payments should not be made unless goods have been received by the Council to the correct price, quantity and quality standards, except where the CFO advises that payment in advance is the accepted practice for the type of expenditure involved, e.g. subscriptions, travel or conference facility fees;
- payments are made to the correct person for the correct amount and are properly recorded;
- where payments are made by cheque or electronically these should be made by the CFO;
- appropriate evidence of the transaction and payment documents are retained and stored for the appropriate period as defined by the document retention schedule; and
- expenditure, including V.A.T. is accurately recorded against the appropriate budget and that budgetary provision exists to cover the payment.

#### **Payments to Employees and Members**

D.14 The CFO is responsible for all payments of salaries, wages and expenses to staff and members in accordance with approved procedures and rules.

#### **Taxation**

D.15 The CFO is responsible for advising Directors on all taxation issues that affect the Council.

D.16 The CFO is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate. Directors shall provide such information, maintain such records and administer taxes in a suitable manner, as the CFO requires, to fulfil these responsibilities.

**PART 4 – RULES OF PROCEDURE**  
**6. FINANCIAL PROCEDURE RULES**

## **FINANCIAL PROCEDURE RULE E: EXTERNAL ARRANGEMENTS**

### **Introduction**

- E.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social, or environmental well-being of its area.
- E.2 All projects involving the voluntary sector must be supported by an appropriate assessment of need, options appraisal, value for money and contain expected outcomes.

### **Partnerships, Trusts or Other Organisations**

- E.3 The Council should be clear about the role and responsibility of officers or members attending or participating in any partnerships, trusts or other organisations as a result of their position within the Council. Cabinet is responsible for approving delegation of financial management arrangements relating to, and specifically, agreeing partnerships.
- E.4 The Council representative on any partnership, trust or other organisation must refer all financial decisions to Cabinet, including considering any recommendations that would create a commitment or liability for the Council. Any other specific delegation arrangements in respect of partnerships will be set out in the Scheme of Delegation.
- E.5 The MO is responsible for promoting and maintaining the same high standards of conduct with regard to partnerships that apply throughout the Council and representatives to partnerships should exercise these same high standards. Representatives should not be put under any actual or perceived undue pressure to carry out a particular course of action.
- E.6 The CFO must ensure that accounting arrangements to be adopted relating to partnerships, joint operations and joint ventures are satisfactory. Directors must also consider any overall corporate governance issues and shall take account of any legal issues when arranging contracts with external bodies. They must ensure that the risks have been fully appraised and brought to the attention of the respective decision-maker before agreements are entered into with partners and other external bodies and that all significant risks are effectively managed and reported upon.

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### **6. FINANCIAL PROCEDURE RULES**

- E.7 All partnership agreements involving the discharge of Council Services and statutory duties by external bodies in exchange for payment shall contain the following clause: -

In order to deliver the Council's statutory responsibilities for internal audit, the HIA shall have all reasonable rights of access to information and persons of the partner body so as to ensure that the Council's internal control arrangements are sound, its financial interests protected and all income due to it and payments made by it can be vouched for and confirmed to be adequate and correct.

- E.8 Directors are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work or partnerships with external bodies, before financial arrangements are made.

### **External Funding**

- E.9 Directors are authorised to apply for external funding, in consultation with the CFO, which contribute to the delivery of Council services or achievement of Council goals. Grant acceptance and/or commitment is subject to key decision rules; acceptance and/or commitment to revenue funding above £250,000 will be approved by key decision and acceptance and/or commitment to capital funding above £1,000,000 will be approved by key decision. It must be explicit in the grant determination that the funding is capital grant, otherwise the threshold for approval by key decision will be £250,000.
- E.10 Grant acceptance and/or commitment relating to external funding opportunities arising after the budget has been set and which will be used to replace funding for existing approved activity (i.e. a funding swap), can be approved by the CFO and will not be subject to key decision rules, provided the terms and conditions of the funding do not change the scope of the existing approved activity.
- E.11 Grant acceptance and/or commitment relating to external funding from Government, where the Council has no choice but to accept the funds and where the Council must spend or passport the funds as directed by Government, can be approved by the CFO and will not be subject to key decision rules.
- E.12 Any external funding received by the Council after the budget for the year has been approved, outside of rule E.9, E.10 and E.11, will be classed as a corporate resource unless otherwise determined by the CFO.
- E.13 Directors are responsible for ensuring that action plans are in place (including exit strategies and match funding arrangements) for all external funding within the Directorate.
- E.14 The CFO, in consultation with the respective Director, is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts. Directors are responsible for promptly informing the CFO about such funding and of any subsequent modifications to timing and amounts of anticipated funding.

## **PART 4 – RULES OF PROCEDURE**

### **6. FINANCIAL PROCEDURE RULES**

- E.15 Where the income is receivable against a grant claim, the respective Director is responsible for producing the grant claim and shall provide sufficient information to enable the claim to be signed by the Chief Executive, CFO or any other relevant person where appropriate.

#### **Work for Third Parties**

- E.16 Current legislation enables the Council to provide a range of services to other bodies, e.g. shared services, joint ventures. The relevant Director, in consultation with the CFO, is responsible for approving the contractual arrangements for work undertaken on behalf of third parties or external bodies, subject to key decision rules. In all cases consideration must be given to the financial, legal, risk and human resources implications of such arrangements both in the short and longer term.

#### **Grants to Outside Bodies**

- E.17 Directors are authorised to approve grants and annual assistance to external bodies, subject to key decision rules and other requirements of these FPR and related guidance and this approval being formally recorded. Grants to Academies and Voluntary Aided schools for capital projects are exempt.
- E.18 Irrespective of where approval responsibility rests, the relevant Director must ensure the Council's interests are protected at all times and must be in a position to provide assurance that the following requirements have been met or will be met before any grant or other assistance is actually made: -
- the receiving body has been properly identified with suitable lead parties, its work/purpose is identified, and are bona fide, with suitable trust documents or Constitution;
  - any conflicts of interest have been declared and properly managed;
  - any risks to such agreements and the Council's interests are being adequately and appropriately managed on a continuous basis;
  - it will be possible to confirm the proper use of the Council's assistance, including the purpose and outcomes, which contribute to the delivery of Council services or achievement of Council goals;
  - arrangements for the repayment of any loan have been made;
  - arrangements to gain repayment/recovery for the value of the assistance are in place in the event of default by the recipient, including taking security of assets where appropriate;
  - appropriate monitoring and performance arrangements, commensurate with the value of grant, are to be set in place to ensure the predetermined expected outcomes and performance of the external organisation are being satisfactorily achieved;

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### **6. FINANCIAL PROCEDURE RULES**

- the recipient will provide evidence to the Council demonstrating the proper accounting for and use by the recipient of the assistance;
  - arrangements are set in place for the recipient to provide accounting records as the Council deems necessary and the CFO and representative of the Council are given rights supporting such access to information, documents and evidence;
  - a formal legally binding agreement is in place between the Council and the body covering the above conditions relating to the use of the grant or other assistance;
  - for grants in excess of £10,000, arrangements should be made to monitor the financial status of the recipient in order to ensure that the Council is not providing assistance to a body that is to, or is likely to, terminate for financial reasons and hence be unable to fulfil the purpose for which assistance is being given.
- E.19 Full records shall be maintained of all grants and related applications for assistance; they should identify members of staff or Members involved in the processing of applications and grants; should record the date of approval of any grant or other assistance, together with other relevant transaction information.
- E.20 Directors are responsible for promptly taking action where there are concerns over delivery, accounting or any other aspects of scheme administration and management. This may require recovering grant sums or the value of assistance given and assets provided by the Council.

## PART 4 – RULES OF PROCEDURE

### 6. FINANCIAL PROCEDURE RULES

## APPENDIX A: GLOSSARY

In these Rules, unless the context otherwise requires: -

**Asset** is any asset including material and intellectual property but excluding any estate or interest in land and buildings, i.e. 'Property' as defined by these FPR.

**Bad debt** means any debt that is unable to be collected after all reasonable efforts have been exhausted.

**Budget** is a plan expressed in financial terms.

**Budget Framework** is the overall budget approved by Council this includes the revenue, capital and HRA budgets for the medium-term.

**Budget Holder** is an officer nominated by a Director as being responsible for managing a defined sum of money, i.e. 'budget'.

**Capital Programme** is the sum of all the Council's individual capital projects.

**Capital Project** is a project which uses capital resources to build, improve, increase the market value or substantially lengthen the useful life of an asset.

**Capital Expenditure** is to acquire fixed assets that will be of use for more than one year in which they are acquired and which adds to the Council's tangible assets rather than simply maintaining existing ones.

**Council** means Doncaster Council.

**Chief Financial Officer (CFO)** is appointed by the Council to exercise the powers defined in Section 151 of the Local Government Act 1972.

**CIPFA** is the Chartered Institute of Public Finance and Accountancy; the professional body for people in public finance.

**CPR** means the Contract Procedure Rules.

**Depreciation** means the measure of the wearing out, consumption or other reduction, in the economic life of a fixed asset, whether arising from use, passage of time or obsolescence through technological or other changes.

**Director** means the Chief Executive and those Managers that report direct to the Chief Executive.

**Directorate** refers to the large departments that make up the Council's management structure.

**Doubtful debts** means any debt that is unlikely to be collected after all reasonable efforts have been exhausted.

**Earmarked Reserves** are funds set aside for a specific purpose.

## **PART 4 – RULES OF PROCEDURE**

### **6. FINANCIAL PROCEDURE RULES**

**Executive** means the body described in Part 1 of the Constitution.

**Finance Manual** is the detailed financial guidance which will assist users in the applications of these FPR.

**FPR** means these Financial Procedure Rules.

**Head of Internal Audit (HIA)** leads the Council's Internal Audit function.

**Key Decision** has the meaning as set out in the Council's constitution and is a decision that is likely to:

Result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or

Be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the Council.

The level of expenditure/savings which this Authority has adopted as being financially significant are: (a) in the case of the revenue budget, gross full-year effect of £250,000 or more. (b) in the case of the capital budget, £1,000,000 or more in respect of a single project or set of interdependent projects.

**Leasing Agreement** is a contract for the provision of finance to enable goods or services (but not Property) to be obtained and where ownership in any goods does not necessarily pass to the Council at the end of the contract period.

**Management Team** means the group of executive staff comprising the senior management charged with the execution of strategy.

**Medium-term Financial Strategy (MTFS)** refers to the overview of the Council's revenue position over the next four-year period.

**Member** is a Councillor generally or, in relation to a committee or sub-committee, a Member of that committee or sub-committee. The Elected Mayor will be treated as a Member of the Council unless the law or context requires otherwise.

**Monitoring Officer (MO)** is designated as the Assistant Director Legal and Democratic Services.

**Officer** means any employee of the Council or other authorised agent.

**Partnership** means an arrangement where parties agree to cooperate to advance their mutual interests.

**Portfolio Holder** is the Councillor who, as a member of the Executive, has primary responsibility for a defined area of service(s).

**Property** refers to any estate or interest in land or buildings.

**Property Officer** is a designation currently held by the Assistant Director of Development.

## **PART 4 – RULES OF PROCEDURE**

### **6. FINANCIAL PROCEDURE RULES**

**Reserves** means the accumulation of surpluses, deficits and appropriations over past years.

**Revenue** is income or expenditure, arising from or spent on, day-to-day activities and short lived commodities or consumables.

**Revenue Budget** is the Council's revenue spending plans for the year including the level of Council tax.

**Services** means the provision by a contractor of any services or similar facilities or works for the Council.

**Virement** is the transfer of resources between or within approved cost centres for both revenue and capital purposes.



## PART 4 RULES OF PROCEDURE

### 7.CONTRACT PROCEDURE RULES

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## PART 4 RULES OF PROCEDURE

### 7. CONTRACT PROCEDURE RULES

#### SECTION 1 – SCOPE OF CONTRACT PROCEDURE RULES

##### 1.0 Introduction

- 1.1 Strategic Procurement is ‘the process of acquiring goods, works and services, covering both acquisitions from third parties and from in-house providers. The process spans the **whole life cycle** from identification of needs, through to the end of a services contract or the end of the useful life of an asset. It involves options appraisal and the critical 'make or buy' decision.’<sup>1</sup>
- 1.2 These Contract Procedure Rules outline the policy and procedures for the procurement activities across the Council that includes ordering for the purchase, commissioning, hire and lease of goods, services and works on behalf of the Council.
- 1.3 Compliance with the Contract Procedure Rules ensures that:
- All providers are treated fairly and equally, and that all procurement takes place in an open and transparent way, encouraging competition.
  - The rules and procedures governing the procurement process are set out clearly for Council Members, Officers, third parties buying or commissioning on behalf of the Council, providers and other interested stakeholders.
  - All elements of procurement, from identifying the need through to disposal of goods or ending of contracts, are governed to ensure sound, robust procurement practice.
  - The Council complies with Public Procurement Regulations (“the Regulations”) and any other legislation governing public sector procurement.
  - The Council can defend against allegations of incorrect or fraudulent procurement practice, should the need arise.
- 1.4 The Council has a duty to make the best use of its assets and finances on behalf of the residents and businesses of the borough. It is important that goods, services and works are procured in a way that offers value for money and is carefully regulated, lawful, and ensures transparency and accountability.
- 1.5 The following pages offer further details in relation to the compliance and general requirements around procuring goods, services and works on behalf of the Council and should be read and complied with for any procurement activities.
- 1.6 It also should be noted that these Contract Procedure Rules should be read in conjunction with the Council’s Finance Procedure Rules (FPR’s), the Contract Procedures Guide and other Procurement Guides in order for Council employees to discharge their responsibilities accordingly.

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<sup>1</sup> Source – National Procurement Strategy for Local Government

## **PART 4 RULES OF PROCEDURE**

### **7. CONTRACT PROCEDURE RULES**

#### **2.0 Basic Principles of Procurement**

2.1 All procurement and commissioning procedures must:

- Be in line with the Council's objectives as set out in the Corporate Plan.
- Meet the procurement need and achieve value for money.
- Ensure fairness and transparency in the allocation of public contracts.
- Comply with all appropriate legal requirements.
- Ensure that all risks in the process are appropriately assessed and managed.
- Ensure that all required pre-tender consultation has taken place.
- Ensuring Strategic Procurement is engaged at an early stage of the process to ensure that the best commercial option is undertaken in any resulting tendering exercise
- Encourage the participation of local businesses in Council contracts.
- Promote social value through the Councils contracting activities.

2.2 Procurement Procedures - once the need for goods, services or works has been identified, Officers are required to :-

- a. investigate whether the Council has an In-House Provider which can meet the requirements; if this is not possible
- b. investigate whether the Council operates a Council Wide contract or other arrangement through which the requirement can be met; if this is not possible;
- c. investigate whether there is a suitable regional or national framework which could be used to source the requirement; **or**
- d. carry out a Council procurement process (c and d should be conducted simultaneously to ensure the best route to market is obtained)

#### **3.0 Procedures for Schools**

3.1 Governing bodies, in association with Head Teachers and Management Teams, are required to use the Council's Schools Financial Rules – Contract Procedures Rules.

#### **4.0 Compliance and Conduct**

4.1 The Contract Procedure Rules must be adhered to by:

- All Members
- All Officers
- Persons or organisations responsible for awarding, managing and monitoring contracts on behalf of the Council.

## **PART 4 RULES OF PROCEDURE**

### **7. CONTRACT PROCEDURE RULES**

- 4.2 The highest standards of probity are required of all those involved in the procurement, award and management of Council contracts.
- 4.3 Any **failure to comply** with any of the provisions of these Contract Procedure Rules, the Code of Practice, the Financial Procedure Rules or Public Procurement legal requirements by Officers **may result in disciplinary action** and may in some instances/cases constitute a criminal offence.
- 4.4 The Contract Procedure Rules are a minimum standard and a more prescriptive procurement regime must be followed where this is required by UK Law and agreements with Grant Funding Organisations.
- 4.5 Measures should be taken to effectively prevent, identify and remedy conflicts of interest arising through procurement activity to avoid any distortion of competition and to ensure equal treatment of all providers.
- 4.6 Any Officer, Member or other person acting on the Council's behalf in relation to a procurement or purchase must declare any potential Conflict of Interest as soon as they become aware of it. This must be declared to Strategic Procurement Team (SPT) and a decision to allow continued involvement approved or declined by the Head of Procurement and recorded.

### **5.0 Procurement Plan and Contracts Register**

- 5.1 The Council's Strategic Procurement Team (SPT), in conjunction with Directorates, may publish Prior Information Notice's using the Find a Tender Service (FTS) detailing the contracts for goods, services and works, which it expects to procure in the coming financial year.
- 5.2 Directors shall ensure that all contracts to be procured over the Public Procurement thresholds as stated in CPR 17.5 are notified to SPT and are registered on the procurement forward plans.
- 5.3 Each Director shall ensure that they notify the SPT of any contracts awarded, extended, novated, or materially varied linked to Regulation 72 of the PCR2015 (SPT will advise) so that SPT may update the Contracts Register and publish any required notices.

### **6.0 Contract Value**

- 6.1 When contracting goods, services or works, a genuine assessment of the whole life value of the contract or framework agreement must be undertaken. (Refer to the **Contract Procedures Guide** for further guidance on how to calculate).
- 6.2 If the project can be demonstrated as truly, innovative and an estimate cannot be, provided approval to proceed must be obtained from the Monitoring Officer or nominated deputy before commencing a competitive tendering process.

## **PART 4 RULES OF PROCEDURE**

### **7. CONTRACT PROCEDURE RULES**

- 6.3 The Council shall make the best use of its purchasing power by aggregating purchases wherever possible. In particular contracts for goods, services or works shall not be disaggregated in an attempt to avoid the /application of these Contract Procedure Rules or the Regulations.
- 6.4 For Concession contracts, the value of the contract shall be the total turnover of the concessionaire generated over the duration of the contract, net of VAT, in consideration for the goods, services or works that are the object of the Concession contract. (For further detail refer to the **Contract Procedures Guide**)
- 6.5 The value of an Income Contracts is the gross income generated by the Council as a result of the rights granted, or goods, services or works supplied by the Council.

### **7.0 Awarding Contracts**

- 7.1 These CPRs should be read in conjunction with the decision-making provisions in the Council's Constitution and Financial Procedure Rules. Directors may take the decision to award a contract themselves provided that any appropriate key decision or budget approvals are already in place.

### **8.0 Relevant Contracts**

- 8.1 All relevant contracts must comply with the Contract Procedure Rules
- 8.2 A relevant contract is any arrangement made by, or on behalf of, the Council for the carrying out goods, services or works.

This includes arrangements for:

- The purchase, hire or leasing of goods and equipment
- The delivery of services, including (but not limited to) those related to
- Use of agency staff
- Land and property transactions relating to development agreements
- Financial services
- Consultancy services
- Concession and Income contracts

- 8.3 Relevant contracts do not include:

- Employment contracts (permanent, interim or casual). For the avoidance of doubt, the appointment of recruitment services is subject to the CPRs.
- Contracts relating to the disposal or acquisition of an interest in land (except those involving development agreements)

## **PART 4 RULES OF PROCEDURE**

### **7. CONTRACT PROCEDURE RULES**

- Certain financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments
  - Concessions relating to street traders and market stalls
  - Residential and nursing care contracts which the Council has a duty to provide under S117 Mental Health Act 1983, S17, s17A, s17B and s17ZA – ZI Children Act 1989 and S2 Local Government Act 2000
  - Health and social care contracts where the recipient of care has a personal choice and directly contracts with the care provider including direct payment including under sections 31 – 36 of the Care Act 2014, section 57 - s 58 of the Health and Social Care Act 2001, section 12A of the NHS Act 2006 and section 17A of the Children Act 1989;
  - The employment of Barristers - Barristers engaged to represent the Council must be appointed through the Assistant Director of Legal and Democratic Services
  - Legal services contracts and arbitration services provided they fall within the exemptions set out in Regulation 10 of the Public Contract Regulations.
  - The selection of a provider whose use is a condition of a Grant funding approval.
  - Where only one provider is able to supply for technical or artistic reasons or because of exclusive rights, for example the purchase of work of art, museum artefacts, manuscripts or archive collections items
  - Grant funding in line with the Financial Procedure Rules part E15, E16, E17 and E18
  - Licence agreements of private or public land
  - Partnership Agreements made under Section 75 of the National Health Service Act 2006 and payment by and to NHS Bodies made under Section 76 and 256/257 of the NHS Act 2006
  - Supplies purchased or sold in a public market or auction
- 8.4 A contract is a legally binding agreement required for all goods, services or works entered into by a representative of the Council. A contract can be formed through verbal or, written means (including by email) or via the exchange of monies.
- 8.5 All contracts above £250,000 are required to be approved by the Assistant Director of Legal and Democratic Services.
- 8.6 All construction related contracts must be executed as a deed (under seal)

## **PART 4 RULES OF PROCEDURE**

### **7. CONTRACT PROCEDURE RULES**

- 8.7 Letters of Intent will only be issued in very exceptional circumstances following consultation and approval of the Assistant Director of Legal and Democratic Services.
- 8.8 The Council may enter into nil (cash) value contracts and the Council's Contract Procedure Rules will still apply in this case.
- 8.9 Providers undertaking procurement activity on behalf of the Council must comply with the Council's Contract Procedure Rules.
- 8.10 Any lease, hire or credit arrangement (such as vehicle or equipment leasing) which has a capital cost must be approved for inclusion in the Capital Programme in accordance Finance Procedure Rules relating to Capital expenditure, prior to commencing any procurement exercise

### **9.0 Exemptions to the Contract Procedure Rules**

- 9.1 No exemptions can be made to the requirements of competition in terms of the Contract Procedure Rules, unless authorised in writing by the Monitoring Officer (or nominated deputy), after considering a written report by the appropriate Director.
- 9.2 A register of all exemptions will be maintained by the Monitoring Officer.
- 9.3 Any breaches to the Contract Procedure Rules will be reported to the Audit Committee on a six-monthly basis.

### **10.0 Waivers to the Contract Procedure Rules**

- 10.1 Waivers to the CPRs may be permitted when the CPRs cannot be practicality applied, and the award meets one of the following circumstances:
  - a) For works, goods or services which are either patented or unique that it is not possible to obtain competitive prices or are only available from one organisation
  - b) For the execution of works or services or the purchase of supplies involving specialist or unique knowledge or skills.
  - c) An organisation which has won a contract for an earlier phase of work via a competitive process and where further work is required that could not have been identified when the contract was let or to allow safe exit or decommission.
  - d) Reasons of urgency where it is otherwise not reasonably possible to comply with the appropriate CPR requirement (for example an emergency). Even in such circumstances officers must continue to seek and obtain value for money wherever possible.

## PART 4 RULES OF PROCEDURE

### 7. CONTRACT PROCEDURE RULES

- e) The use of time-limited grant funding from an external body, where the time limitations will not allow a competitive process to be completed and where grant conditions allow this.
  - f) Where relevant UK or EU legislation not otherwise referred to in these CPR's prevent the usual procurement process as cited in the CPR's.
  - g) Is permissible under Regulation 72 of the PCR2015.
  - h) Constitutes a trial purchase in line with point 14.0
- 10.2 Only the Monitoring Officer (or nominated deputy) has the authority to waive Contract Procedure Rules or the Chief Financial Officer (CFO) in respect of waivers for Legal and Democratic Services.
- 10.3 Waivers must be obtained in advance of the procurement action as a waiver cannot be authorised retrospectively unless in an emergency (CPR 10.1 (d)).
- 10.4 Waivers **must not** be used to avoid the requirements of the Contract Procedure Rules to go to competition due to lack of time to procure. Procurement projects should be planned well in advance.
- 10.5 Waivers for goods & services contracts can only allowed up to the value, exclusive of VAT, of **£177,898 (£213,477 inc. VAT), £552,950 (inc. VAT £663,540)** for contracts under the Light Touch Regime (Social & Other Specified Services) and **£4,447,488 (£5,336,937 inc. VAT)** (or current Public Procurement thresholds) for works contracts unless in exceptional circumstances and in line with the law on direct awards i.e., Regulation 32, or Regulation 72.
- 10.6 Waivers must demonstrate that value for money has been considered and there are clear benefits or advantages to the Council.
- 10.7 Waivers must demonstrate any risks to the Council associated with granting the waiver.
- 10.8 Waivers must be documented in a form approved by the Monitoring Officer; this is available on the Council's intranet and must be submitted to the SPT for approval.
- 11.0 Contracting Route Options** (refer to **Contract Procedures Guide** on how to follow each option)
- There are different methodologies to contracting on behalf of the Council, these are;
- 11.1 Using In House Service Providers
  - 11.2 Using Council Wide Contracts, Council Framework Agreements or Council Dynamic Purchasing Systems (DPS).
  - 11.3 Using Dynamic Purchasing Systems (DPS) or Framework Contracts (Third Party Arrangements).



## PART 4 RULES OF PROCEDURE

### 7. CONTRACT PROCEDURE RULES

11.4 Perform a quotation or tender exercise to set up a new contract on behalf of the Council.

### 12.0 Approved Lists (below Public Procurement threshold only)

12.1 Approved lists may only be used in agreement with the Monitoring Officer (or nominated deputy) and in line with the **Contract Procedures Guide** on setting up approved lists.

### 13.0 Joint Procurement

13.1 When undertaking a joint procurement arrangement on behalf of the Council the Director must ensure this is done in line with the **Contract Procedures Guide**.

### 14.0 Trial Purchases

14.1 Directors may purchase a trial of goods, services or works that is new to the Council up to a value of **£100,000**, to ascertain if the supply is of interest to the Council, without competition.

14.2 Where an exception to competition in CPR 10.0 does not apply, a full competition, compliant with the CPR's must be conducted following the trial, if the Director wishes to continue with the type of supply.

14.3 Arrangements must be made to ensure the provider(s) involved in the trial has not obtained any advantage through that involvement when compared to alternative providers of a similar supply.

14.4 The Monitoring Officer must approve proposed trial arrangements exceeding **£25,000** and this must be approved via a CPR Waiver Form.

### 15.0 Negotiated Contracts

15.1 There may be a need to consider negotiation when procuring goods, services and works. Officers should be advised that there are restrictions associated with procuring above Public Procurement thresholds. Refer to the **Contract Procedures Guide** for further information on when it is appropriate.

15.2 The use of a negotiated process must be approved in writing by the Monitoring Officer and the relevant Director via an Officer Decision Record 1 (ODR1) Form.

15.3 Verbal negotiation must be undertaken by at least two Council Officers at least one of whom must be independent of the process and approved by the Monitoring Officer (or nominated deputy).

## **PART 4 RULES OF PROCEDURE**

### **7. CONTRACT PROCEDURE RULES**

15.4 Written negotiation must be subject to evidenced independent process check, calculation and value for money. If the contract value is above threshold and the proposed procedure is either Competitive Dialogue or Negotiated Procedure, these must be conducted in line with the Public Procurement regulations and the advice of the SPT sought.

### **16.0 Concession Contracts**

16.1 Concession contracts for services or works are a contract and the procurement of Concessions shall follow the competitive and contracting requirements in these CPRs.

16.2 Concession contracts for works or services with a value of **£4,447,447 (£5,336,937 inc. VAT)** or more are subject to the Concession Contracts Regulations 2016 and will be such to such additional procurement process requirements. To calculate the value of a Concession contract refer to CPR 6.4 and in addition to that the following should be taken into account:

16.3 The value of a Concession contract shall be the total turnover generated by the concessionaire over the duration of the contract, in relation to the services or works that are the object of the Concession contract. For further guidance, refer to the **Contract Procedures Guide**.

### **17.0 Contracting Rules based on value (exc. VAT) and commodity being procured**

For further guidance on the below refer to the **Contract Procedures Guide**

#### **17.1 Contracts valued up to £50,000 inclusive**

- Where the estimated value or amount of a proposed Contract does not exceed £50,000 then the Authorised officer should obtain at least **one** verbal quotation from suitable providers followed up by written confirmation (including email). Officers are encouraged to conduct an informal quotation exercise to ensure value for money.
- For contract awards between £25,000 to £50,000 officers must formally demonstrate value for money, . A Best Value Form (available from SPT) must be completed and sent with the Contract Award Notice to SPT. These will be audited to ensure best value was sought and achieved.
- A quotation must be sought from a Doncaster based business unless in exceptional circumstances Whilst there is only a requirement for one quotation, the Authorised Officer must consider whether additional quotations are in the Councils best interest.
- A written record must be kept of all quotations and procedures followed.

## PART 4 RULES OF PROCEDURE

### 7. CONTRACT PROCEDURE RULES

- An internal Contract Award Notice must be completed for all contracts above £5,000 and submitted to SPT to meet the requirements of the Regulations and Transparency Agenda

***All contracts awarded over £25,000 must have an award notice published on Contracts Finder***

#### 17.2 Contracts valued £50,000 to £177,898 – Quotation

- Between these values, the requirement is to obtain at least **three** written quotations from suitable providers. Wherever possible a minimum of one of the quotations must be sought from a Doncaster Business unless in exceptional circumstances.
- A written record must be kept of all quotations and procedures followed.
- A decision on how to conduct the quotation should be based on the contracting risk.
- Social value must form part of the evaluation criteria for all procurements above £100,000 and must be a minimum of 10% of the evaluation score.
- An internal Contract Award Notice must be completed for all contracts above £5,000 and submitted to SPT to meet the requirements of the Regulations and Transparency Agenda

#### 17.3 Contracts valued £177,898 to £552,950 (Social & Other Specified Services)

- A minimum of **three** tenders should be sought from suitable providers. Wherever possible a minimum of one tender must be sought from a Doncaster Business unless in exceptional circumstances.
- When using an approved third party framework agreement that has been validly set up to be called off on a non-competitive basis (direct award) the Officer must have a written justification for the selection of the provider(s) and if above **£250,000** the decision to execute the direct award must be approved by the Monitoring Officer (or nominated deputy).
- Social value must form part of the evaluation criteria for all procurements above £100,000 and must be a minimum of 10% of the evaluation score.
- An internal Contract Award Notice must be completed for all contracts above £5,000 and submitted to SPT to meet the requirements of the Regulations and Transparency Agenda

## **PART 4 RULES OF PROCEDURE**

### **7. CONTRACT PROCEDURE RULES**

#### **17.4 Contracts valued £177,898 to £4,447,448 (Works)**

- A minimum of **three** tenders should be sought from suitable providers or providers. A minimum of one tender must be sought from a Doncaster Business unless in exceptional circumstances.
- When using an approved third-party framework agreement that has been validly set up to be called off on a non-competitive basis (direct award) the Officer must have a written justification for the selection of the provider(s) and if above **£250,000** the decision to execute the direct award must be approved by the Monitoring Officer (or nominated deputy).
- Social value must form part of the evaluation criteria for all procurements above £177,898 and must be a minimum of 10% of the evaluation score.
- An internal Contract Award Notice must be completed for all contracts above £5,000 and submitted to SPT to meet the requirements of the Regulations and Transparency Agenda

#### **17.5 Contracts valued over £177,898 (Goods & Services), £552,950 (Social & Other Specified Services) or £4,447,448 (Works)**

- Over these values, the requirement is to tender all contracts in accordance with the Public Procurement regulations and Contract Procedure Rules.
- When using an approved third-party framework agreement that has been validly set up to be called off on a non-competitive basis (direct award) the Officer must have a written justification for the selection of the provider(s) and if above **£250,000** the decision to execute the direct award must be approved by the Monitoring Officer (or nominated deputy).
- Social value must form part of the evaluation criteria for all procurements above £100,000 and must be a minimum of **10%** of the evaluation score.
- An internal Contract Award Notice must be completed for all contracts above £5,000 and submitted to SPT to meet the requirements of the Regulations and Transparency Agenda

### **18.0 General Data Protection Regulation (GDPR)**

18.1 Where any Provider is given possession of or access to any personal data, the Service Director must comply with the Council's Data Protection obligations. The Service Director must follow the Council's Information Security and Data Protection Policies, in particular regarding contracting with data processors and sharing data and carry out a Data Protection Impact Assessment (DPIA) in consultation with the Information Governance Team. For further information, refer to the **Contract Procedures Guide**.

## **PART 4 RULES OF PROCEDURE**

### **7. CONTRACT PROCEDURE RULES**

#### **19.0 ICT Related Contracts**

- 19.1 Any technology requirement, including hardware, software, accessories/peripherals, and consumables, must be procured and agreed by the ICT Department
- 19.2 Any requirement for new or replacement technology or major upgrade/enhancement to existing technology, or contract changes, must be considered and approved by the Technology Governance Board. The Assistant Director – Finance and Technology or nominated officer must be involved in all procurement activities for Council systems and specific advice taken into account in the contract award decision.

#### **20.0 Contract Award Notice**

- 20.1 All Contract awards above **£5,000** will be recorded on the Council's Contracts Register.
- 20.2 All contracts over **£250,000** shall be under seal, unless the Monitoring Officer approves other arrangements.
- 20.3 Contracts with a value up to **£177,898** (Public Procurement Threshold) will be based on the Council's standard terms and conditions. Where a variation is required from the standard terms and conditions this will be agreed by the Monitoring Officer (or nominated deputy).
- 20.4 The decision to award a contract shall be made by the Director (or nominated deputy) on receipt of a written recommendation from the relevant officer. This recommendation should give details of the reasons why tenders, if any, were disqualified and the reasons for the selection of provider(s).
- 20.5 Where the terms and conditions of Contract are not fully agreed no provider shall be allowed to commence delivery of goods, services or works until a full risk assessment has been carried out by the Authorised Officer as to the possible implications to the Council by the provider being allowed to commence work before the Contract terms and conditions have been finalised.
- 20.6 Following the notification of award of contract, the Authorised Officer is required to submit a Contract Award Form to the Strategic Procurement Team so the details of the awarded Contract can be published on the Council's Corporate Contracts Register and Contracts Finder to meet the requirements of the Regulations and Transparency Agenda.
- 20.7 Where a contract has been tendered pursuant to Public Procurement Law, the Council shall publish a contract award notice to meet the relevant legislative requirements.
- 20.8 Authorised Officers are also required to prepare a report in accordance with Regulation 84 of the Public Contract Regulations and a copy stored.

## PART 4 - RULES OF PROCEDURE

### 7. CONTRACT PROCEDURE RULES

#### 21.0 Contract Terms and Conditions

21.1 The officer shall use their best efforts to ensure that Contracts are entered into on the Council's terms and conditions, which shall be included with each purchase order or Invitation to Tender. Where this is not possible, because the Council's terms and conditions are not suitable, and a provider has been asked to submit their own terms and conditions, where there are material changes to the Council's terms and conditions, they must be formally approved in writing by the Monitoring Officer (or nominated deputy) before they can be accepted.

#### 22.0 Contract Extensions and Variations

##### Variations

22.1 **Variations** must be evidenced in writing.

22.2 All Contract variations must be carried out within the scope of the original Contract. Contract variations that materially affect or change the scope of the original contract are not allowed unless approved by the Monitoring Officer. If a material change is accepted then notices must be published in accordance with the regulations.

22.3 A new procurement is required in the case of a material change where one or more of the following conditions are met:

- The variation introduces conditions which, had they been part of the initial procurement exercise, would have allowed for the admission of other tenderers than those initially selected or for the acceptance of an offer other than that originally accepted or would have attracted additional participants in the procurement procedure;
- The variation increases the value of the contract or the framework agreement substantially in favour of the provider in a manner which was not provided for in the initial contract or framework agreement;
- The variation extends the scope of the contract or framework agreement considerably.

22.4 All contract variations must be in writing and signed by both the Council and the provider except where different provisions are made within the contract documentation.

22.5 The value of each variation must be assessed by the Authorised Officer and all necessary approvals sought prior to the variation taking place including registrations on the Council's forward plan if applicable.

22.6 Approval for any variation shall be sought in writing from the Director in a timely manner and supported by an appropriate decision record signed by the Director.

22.7 If the variation relates to a contract that has previously been waived then a CPR Waiver Report Addendum should be completed and signed by the Monitoring Officer (or the Chief Financial Officer if the waiver relates to Legal and Democratic Services contracts).

## **PART 4 RULES OF PROCEDURE**

### **7. CONTRACT PROCEDURE RULES**

#### **Extensions**

- 22.8 The term of any contract may only be extended where all the following criteria have been met:
- Provision for an extension of the term is evidenced by the original contract (and the original tender/quotation); and
  - Where the budget provision and the extension is in line with the Financial Procedure Rules; and
  - Where the contract value including the extension exceeds the key decision threshold (£250,000 – revenue budget, or £1,000,000 – capital budget), a separate key decision has been approved.
  - Where the contract still delivers Value For Money
  - In the case of ICT related expenditure has had the appropriate approvals.
- 22.9 Only the Monitoring Officer may approve an extension to the term of a contract outside the rules through a CPR Waiver Report Form.
- 22.10 Contract extensions will not be permitted if the value of the extension is above the advertised value in the Contract Notice.
- 22.11 All variations and extensions to any Council contracts must be in writing and reported to the SPT in order that the Contracts Register for the Council can be updated accordingly. Material variations once agreed with the Monitoring Officer must be notified to SPT.

#### **23.0 Transfer of Contracts – Novation and Assignment**

- 23.1 Transfer, assignment, and novation of contracts can only be agreed by the Monitoring Officer (or nominated deputy) using an ODR.

#### **24.0 Termination of Contract(s)**

- 24.1 Provision for the termination of a contract must be included within the terms and conditions of the contract. Only the Monitoring Officer has the authority to agree early termination of a contract where this is not built into the contract terms and conditions. This must be formalised via an ODR authorised by the Monitoring Officer.
- 24.2 The Monitoring Officer must be consulted where there are serious concerns over the performance of a contract.
- 24.3 The Monitoring Officer must be consulted if the performance of a contract is giving rise for concern and consideration is given to termination.

## **PART 4 RULES OF PROCEDURE**

### **7. CONTRACT PROCEDURE RULES**

24.4 An Exit Plan, which can cover one or more Contracts, must be prepared for every contract well in advance of contract expiry. It is recommended that this should be put in place at least 6 months in advance to allow for the approvals, pre-planning process, and any re-procurement.

### **25.0 Procurement by External Agents**

25.1 Any consultants used by the Council shall be appointed in accordance with these Contract Procedure Rules. Where the Council uses consultants to act on its behalf in relation to any procurement, then the Director shall ensure that the consultants carry out any procurement in accordance with these Contract Procedure Rules.

25.2 No consultant shall make any decision on whether to award a Contract or who a Contract should be awarded to.

25.3 The Director shall ensure that the consultant's performance in relation to procurement is in accordance with these Contract Procedure Rules.

25.4 Where the Council uses consultants to act on its behalf in relation to any procurement the consultant must declare any conflict of interest that may arise to the Director prior to commencing work on any Tender.

25.5 Where the Director considers that such a conflict of interest is significant the Director should consider whether it is appropriate for the consultant to work on a particular tender and the consultant should not be allowed to evaluate Tenders on behalf of the Council.

25.6 Before any self-employed provider is awarded a contract, the provider's details must be obtained and assessed through the Council's assessment tool to ensure our obligations under IR35 are adhered to. Further guidance can be found in the Contract Procedure Guide (CPG).

### **26.0 Member Involvement**

26.1 Directors are responsible for ensuring appropriate consultation has taken place with members, this could include consultation on the evaluation criteria.

26.2 Members should not become involved in the remainder of the procurement activity, unless any specific decisions are required by portfolio holders, Cabinet or the Council, in accordance with the Councils constitution and scheme of delegation.

### **27.0 Record and Document Retention and Control**

27.1 A Contracts Register of all Contracts awarded with an aggregated value above **£5,000** shall be maintained by the SPT.



## **PART 4 RULES OF PROCEDURE**

### **7. CONTRACT PROCEDURE RULES**

- 27.2 Each relevant Director shall maintain their own register of all other Contracts, under **£5,000** as a minimum, entered into by their directorate.
- 27.3 For every individual Contract above **£25,000** a 'Contracts File' shall be maintained with appropriate documentation which must include, as a minimum, the following: -
1. The method for obtaining bids
  2. Any exemption under Rule 10 together with reasons for it;
  3. The evaluation criteria in descending order of importance and associated evaluation method;
  4. Tender documents sent and received from the Providers;
  5. Any pre-tender market research;
  6. All notes made by the evaluation panel during the evaluation of tenders;
  7. Clarification and post-tender negotiation (to include minutes of meetings);
  8. A copy of the Contract documents (originals should be held in Legal Services);
  9. Post-contract evaluation and monitoring;
  10. Communications with all provider(s) during the Tender process and with the successful provider throughout the period of the Contract;
  11. Award of Contract documentation;
  12. Any decision to abandon a procurement exercise or terminate a Contract.
  13. All delegated decisions, authorisations, waivers and reports relating to the Tender process and subsequent Contract.

### **28.0 Council Purchase Cards**

- 28.1 The Council uses Purchasing Cards in order to reduce transaction costs for low value purchases by reducing time spent on processing of orders and invoices or in emergencies.
- 28.2 Purchasing cards must not be used as a way of bypassing CPRs. However, in some circumstances, where a contract exists and the provider allows, a purchase card may still be used as a method of payment, where this offers better value for money or is specified in the contract. For further guidance refer to the Purchase Card Policy or contact SPT.

## **PART 4 RULES OF PROCEDURE**

### **7. CONTRACT PROCEDURE RULES**

#### **29.0 Cost Control**

29.1 The Director shall ensure that suitable procedures are laid down and followed for the effective cost control of all contracts. Such procedures shall involve a continuous monitoring of the cost being incurred on each contract with the objective of ensuring that the project is completed within the authorised cost and that any unavoidable extra costs are identified quickly so that appropriate action can be taken.

29.2 All contracts must have a clear review and approval mechanism for price increases i.e. be linked to the applicable index related to the contract category.

29.3 The procedures shall provide:

- (a) A cost statement to be prepared every time a contract payment is made assessing the probable final cost. This should take into account all known factors including variations, adjustments of prime cost and provisional sums and other items such as re-measured work;
- (b) A cash flow forecast based on a cost statement prepared by the relevant Director, showing the expected pattern of payments to the end of the contract, updated each month until the final payment is made.

As soon as it becomes apparent to the Director that costs will exceed the amount authorised, the Director must immediately report the situation to the CFO (or nominated deputy). A final cost report shall be submitted to the CFO (or nominated deputy).

#### **30.0 Contract Claims and Disputes**

30.1 To safeguard the Councils right to deduct liquidated damages, if the contract is over-running the officer must certify in writing that the provider ought reasonably to have completed the works within the contract period. Such a certification must be in accordance with the contract conditions and be issued prior to the issue of the final certificate for payment.

30.2 Any events that may lead to claims for extension of time must immediately be brought to the attention of the officer.

30.3 Claims for extension of time must be assessed promptly and any extension award made in accordance with the conditions of contract.

30.4 If the works are not complete, the officer must issue a certificate of non-completion in accordance with any relevant contract conditions immediately after the expiry of the (extended) date for completion. It is the ultimate responsibility of the Director (or nominated deputy) to arrange for the deduction of liquidated damages.

30.5 If the provider subsequently brings forward fresh evidence of delay, the officer may award a further extension but must then also issue a revised certificate stating the revised date in accordance with any relevant contract conditions.

## **PART 4 RULES OF PROCEDURE**

### **7. CONTRACT PROCEDURE RULES**

- 30.6 Before the final certificate is issued, the officer shall check that any necessary certificate has been issued in accordance with the relevant contract conditions.
- 30.7 The Monitoring Officer (or nominated deputy) shall be kept informed at all times of all contractual claims whether by or against the Council.
- 30.8 Documentary evidence must be kept relating to all aspects and stages of a claim and these should be kept by the Director at one central point.

### **31.0 Review and Amendment of Contract Procedure Rules**

- 31.1 The Monitoring Officer and Chief Financial Officer are authorised to make technical amendments as necessary to ensure these procedures are consistent with legal requirements, changes in Council structures, personnel and best practice.

## **GLOSSARY OF TERMS (including general procurement terms)**

**Added Value** - Any benefits or services that can be provided over and above that of the contract requirements

**Aggregation of Demand** – Where similar or same purchases made separately over a period of time (and often from multiple providers) are combined into one contract requirement

**Alcatel (or Standstill) Period** – Contracts over the Public Procurement threshold must include a minimum 10 calendar days standstill period between the decision to award a contract and the actual award. Unsuccessful providers are notified of the proposed award and given the opportunity to appeal if they believe that the award is not justified. It is named after the case law establishing a ruling of an unfairly awarded contract

**Approved List** – List of providers who have met a minimal level of quality assessments, usually through a pre-qualification questionnaire, or pre-approved list e.g. Constructionline database and approved to provide specific work, goods or services

**Approved Providers** – Providers included on approved lists

**Assignment** – The transfer of rights from one provider to another based on the same contract

**Audit Trail** – System or paper generated evidence showing how decisions and procedures were carried out

**Authorised Officer** – a person appointed by a Director who is responsible for the procurement Procedure

**Award** – The allocation of a contract to a successful bidder/provider/provider

**Award Stage** – Final stage of the tendering process, with notification of the successful provider and the signing of the contract

**Bid** – A submitted tender

**Business Case (Procurement)** – The reasons for carrying out a procurement or project, usually indicating initial value, and justifying the need such an identified service need or meeting Council objectives

**Challenge Point** – a review of the evaluation process to ensure that the procedures and outcome of the evaluation process are fair, transparent and reflect the views of the evaluation panel

**Collaboration** – Process by which two or more ‘organisations’ (local authorities, other public sector bodies) work together to obtain a joint solution for a shared requirement. Used to capitalise on the advantages of aggregating demand, such as economies of scale or stronger positioning in the marketplace

**Collusion** – illegal process of agreeing to unfair activities in a procurement process, such as price fixing

**Commissioning** – the strategic activity of assessing need and using resources (both budgets and services) to meet those needs, with procurement forming part of commissioning for the sourcing and setting up contracts to provide services

**Competitive Dialogue** – Competitive dialogue is a procedure in which any economic operator may request to participate and whereby the contracting authority conducts a dialogue with the candidates admitted to that procedure, with the aim of developing one or more suitable alternatives capable of meeting its requirements, and on the basis of which the candidates chosen are invited to tender

**Concession** – an agreement between the Council and a private company for the sole right to provide a specific service

**Contingencies** – future events or circumstances that may occur

**Contract** – Legally binding document that sets out the terms and conditions of the delivery of the works, services or goods, including performance measures

**Contract Management** – Contract management activities can be broadly grouped into three areas.

**CFO** – Chief Financial Officer is the officer appointed by the Council to exercise the powers defined in Section 151 of the Local Government Act 1972.

**Contract administration** – handles the formal governance of the contract and changes to the contract documentation.

**Contracts Finder** - Government portal for advertising contract valued above £25,000 as required by the Public Contract Regulations 2015

**Contracts Register** – A register of Council wide contracts centrally held by Strategic Procurement

**Contract Award Notice** – Notice of the award of a contract published in the Find a Tender (FTS) UK government portal and as required by Public Procurement Law.

**Contract Extension** – continuing with the contract after the initial period of the contract term

**Contract Notice** – published notice of tender opportunity or contract award on the Find a Tender Service (FTS)

**Contract Procedure Rules** – The section of the Councils Constitution that sets out the rules that must be followed when undertaking any procurement process

**Council Wide Contracts** – contracts let on behalf of the Council to meet the requirements of good, services or works that are common or shared across the Council (previously referred to as Corporate Contracts)

**Criteria** – Set of specific requirements that a quote or tender will be marked against

**Delegated Authority** – Officers who have been authorised to carry out such tasks as set out in the Council’s scheme of delegation contained within the Council constitution.

**Director** – The person responsible for the proper compliance with these procedures. Except as indicated otherwise, a Director may delegate authority to other persons to deliver their responsibilities.

**Disaggregation** – Splitting a requirement for similar works, goods or services into a number of smaller contracts to avoid having to undertake a full competitive tender exercise for contracts exceeding the Public Procurement thresholds. This practice is a breach of Public Procurement Law.

**Dispute** - Disagreement between Council and provider or provider that may result in Court action

**Doncaster Business** – A company or other organisation that has an office or premises within the Doncaster Metropolitan Borough Council area.

**Dynamic Purchasing System** - is a procedure available for contracts for works, services and goods that has aspects similar to a framework agreement, but where new providers can join at any time.

**Electronic Tendering (E-Tendering)** – Online tendering and contract management system

**Evaluation** – Detailed assessment and comparisons of bid submissions verifying how providers will meet the requirements of the contract, measured against quality and price criteria

**Evaluation Panel** – Group brought together with the specific aim of assessing submitted tenders against pre-set criteria, to make final recommendations on the award of contract.

**Exceptions** – Permits the undertaking of a procurement action within a specific area without the need for a competitive tender exercise, but signed by the Monitoring Officer (or nominated deputy) or the CFO.

**Execute** – the completion of contract documentation, including the signing, and sealing where required, of the formal contract

**Exemption** – excluding a procurement activity from one or more of the Contract Procedure Rules

**Framework Agreement** – Used where specific works, services or goods will be needed on a number of occasions over a known duration, but the exact requirement is not known. Can be with a single provider (sometimes referred to as a ‘call-off’ contract) or with a multiple number of providers. Once set up, there is no need to go to the open market as competition is held between those providers on the framework

**ISP** – In-House Service Provider is an identified internal service offered by the Council to carry out Council services

**ICT** – Information, Communications and Technology

**Invitation to Tender** – Sent to tenderers asking them to submit bids based on

a specification indicating the requirements of the Council.

**Joint Procurement** – Where other public bodies are included within a procurement exercise

**Key Decision** – A decision which is likely to result in savings or expenditure of over £250,000 gross full-year effect in the case of the revenue budget, or in the case of the capital budget, £1,000,000 or more in respect of a single project or otherwise across one financial year. In addition, any decision that is likely to have a significant effect on two or more wards in the Borough.

**Letter of Intent** – A written statement indicating the Council's willingness to enter into a formal contract.

**Light Touch Regime** – The light-touch regime (LTR) is a specific set of rules for certain service contracts that tend to be of lower interest to cross-border competition. Those service contracts include certain social, health and education services, defined by Common Procurement Vocabulary (CPV) codes. The list of services to which the Light-Touch Regime applies is set out in Schedule 3 of the Public Contracts Regulations 2015

**Liquidated Damages** – Compensation awarded by a court judgement or a contract stipulation regarding breach of contract

**Marketplace** – Wording used to describe a commercial activity or a group of potential providers possibly able to meet requirements

**Monitoring Officer** – This is the Assistant Director of Legal and Democratic Services

**Negotiation** – Process by which a contract proposal is reached through discussion and agreement between the prospective provider and the Council representative

**Negotiated Procedure** – Procurement process undertaken directly with one bidder. Used under specific circumstances

**Novation** – Substitution of a provider with a new provider, or of a contract with a new contract

**Open Tender Procedure** – Tender process that is open to any provider who wishes to bid. All tenders must be considered

**PFI** – A Private Finance Initiative is a way of creating public – private partnerships by funding public infrastructure projects with private capital.

**Pre-Procurement Procedure** – A requirement for stakeholder to ensure they have correctly identified the needs of the service and outcomes have been assessed.

**Provider** – Any person, partnership, company or other organisation, which provides or contractually offers to provide any supply to the Council or on behalf of the Council.

**Public Procurement Law** – UK law known as the Public Contract Regulations 2015, detailing rules and regulations that must be complied with for all public sector procurement processes that exceed specified thresholds

**Qualified Tender** – Where a bidder submits a bid which has been amended to the

bidders requirements, such as inserting their own terms and conditions

**Quotation** – Written or verbal price given by a provider on request

**Remedies Directive** – Public Procurement legislation that sets out the rules by which the procurement actions and decisions may be challenged.

**Regulations** –UK Public Procurement Regulations

**Relationship management** – keeps the relationship between the two parties open and constructive, aiming to resolve or ease tensions and identify problems early.

**Restricted Tender Procedure** – Tender process where potential suitable tenderers are identified by the evaluation of a pre-qualification questionnaire. Only those passing the evaluation criteria of the pre-qualification questionnaires will be invited to tender.

Section 76 and 256/257 of the NHS Act 2006 – payments made between the NHS and local authorities.

**Selection Questionnaire (SQ)** – Set of questions used to establish the suitability of a provider to be included in a bidding process, based on experience, financial stability and quality assessments. Is also be used to eliminate bidders in a restricted (two stage) tender so that only the most suitable providers are invited to tender. This can only be used for above threshold procurements.

**Service delivery management** – ensures that the service is being delivered as agreed, to the required level of performance and quality.

**Specification** – Detailed description of what is required, including monitoring procedures

**Stakeholder** – Individual or organisation with an active interest in the impact or effect of the Council's procurement activities

**State Aid** – Any Government aid must not distort competition by favouring certain businesses or goods

**Sub-Letting** – Engagement of another provider by the main provider

**Submission** – The bid or tender submitted by a provider in response to an invitation to quote or tender

**Sustainable Procurement** – the economic, environmental and social issues to be considered in procurement

**Tender** – Written response to an invitation to tender that contains a full costed proposal. Submitted in a sealed process, and evaluated against set criteria

**Tenderer** – Prospective provider who submitted a bid in response to an invitation to tender or quote

**Tender Documents** – Set of documents provided to prospective tenderers that forms the basis on which tenders will be submitted. Includes, as a minimum, instructions to tenderers, contract terms and conditions, specification, evaluation criteria, pricing schedule, form of tender and anti-collusion statement



**Testing the Market** – Formal procurement process to establish whether there are providers able and interested in providing quotes or bidding

**Termination** – Cancellation of all or most of a contract.

**Thresholds** – Financial boundaries (based on the whole life value of a proposed contract) which determine the procurement action, for example whether a competitive tender is required, or whether a competitive action is required

**TUPE (Transfer of Undertakings (Protection of Employment) Regulations 2006)** - Preserves the continuity of employment and safeguards employment rights of all employees transferring to a new employer i.e. where there is a change of contract provider or where current Council staff are being transferred to another service provider

**Value for Money** – ensuring the needs of the Council are met whilst achieving the required balance of quality and price

**Variation** - A variation is usually a change to the specification. It may either be a one off item of work or service, or a change for the remainder of the contract. Deeds of Variation and Variation Orders are contractually binding on both parties.

**Waiver** – Approval obtained prior to procurement activity, by the MO (or nominated deputy) or CFO, permitting an exception to the Contract Procedure Rules.

**Whole Life Value** – All costs incurred in the lifespan of the contract, including disposal.

Further guidance is available from the Strategic Procurement Team (SPT) and the **Contract Procedures Guide**.

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## **PART 4 RULES OF PROCEDURE**

### **8. EMPLOYMENT PROCEDURE RULES**

These Procedure Rules are Standing Orders made under the Local Authorities (Standing Orders) (England) Regulations 2001, Local Authorities (Standing Orders) Regulations 1993 & Local Authority (Standing Orders) (England) (Amendment) Regulations 2015 & Local Government and Housing Act 1989.

#### **Role of Chief Executive**

1. The functions of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the Officer designated under section 4(1) of the 1989 Act (designation and reports of Chief Executive) as the Head of the Authority's Paid Service or by an Officer nominated by him/her (and not by Members of the Council, except in accordance with Rule 8).

The Chief Executive has nominated all Directors, Assistant Directors and Heads of Service as Officers who can carry out on his/her behalf the functions of appointment and dismissal of, and taking disciplinary action against, a Member of staff, under Rule 1.

2. Rule 1 shall not apply to the appointment or dismissal of, or disciplinary action against those officers designated as Chief Officers: which shall include -
  - (a) the Officer designated as the Head of Paid Service;
  - (b) a statutory Chief Officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
  - (c) a non-statutory Chief Officer within the meaning of section 2(7) of the 1989 Act;
  - (d) a person appointed in pursuance of section 9 of the 1989 Act (assistants for Political Groups); or
  - (e) a person appointed in pursuance of regulations under paragraph 6 of Schedule 1 to the Local Government Act 2000 (Mayor's Assistant).

## **PART 4 RULES OF PROCEDURE**

### **8. EMPLOYMENT PROCEDURE RULES**

#### **3. Recruitment and Appointment of all Officers**

##### **(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 the Mayor, or Officer of the Council or of the partner of such persons.
- (ii) No candidate so related to a Councillor or the Mayor or an Officer, or of a partner of such persons, shall be appointed without the authority of the relevant Chief Officer of the Council.

##### **(b) Seeking Support for Appointment**

- (i) Subject to paragraph (iii) below, the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor or the Mayor for any appointment with the Council. The content of this paragraph (or words to similar effect) will be contained in any recruitment information.
- (ii) Subject to paragraph (iii) below, no Councillor nor the Mayor will seek to support any person for appointment with the Council.
- (iii) Nothing in this Rule will prevent a Councillor or the Mayor from giving a written reference for a candidate for submission in connection with an application for appointment.

#### **4A. Recruitment of Chief Officers**

4A.1 Where the Council proposes to appoint a Chief Officer (as defined by Rule 2 above), and it is not proposed that the appointment will be made exclusively from among their existing Officers, the Council will:

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**8. EMPLOYMENT PROCEDURE RULES**

- (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 appointed
- (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) Make arrangements for a copy of the statement mentioned in paragraph (a)(i) to be sent to any person on request.

4A.2 Where a post has been advertised as provided in Procedure Rule 4.1(b), the Authority shall-

- (a) interview all qualified applicants for the post, or
- (b) select a short list of such qualified applicants and interview those included on the short list.

4A.3 Where no qualified person has applied, the authority shall make further arrangements for advertisement in accordance with Rule 4.1(b).

4A.4 Every appointment of a Chief Officer (as defined by Rule 2) shall be made by the Authority and the Chief Officer Appointments Committee (COAC), where at least one member of the appointed panel will be a member of the Executive, shall discharge that function.

**4B. Recruitment of all Other Officers**

4B.1 Where the Council proposes to recruit an officer other than as defined in Rule 2 above then the Council shall only recruit in accordance with its policies relating to Recruitment that it may have in place at any one time.

## PART 4 RULES OF PROCEDURE

### 8. EMPLOYMENT PROCEDURE RULES

#### **5A. Appointment and Dismissal of Chief Officers and Deputy Chief Officers**

5A.1 In this Rule, "appointor" means, in relation to the appointment of a person as an Officer of the authority, the authority or, where a Committee, Sub-Committee or Officer is discharging the function of appointment on behalf of the authority, that Committee, Sub-Committee or Officer, as the case may be.

5A.2 An offer of an appointment as :-

- (a) the Officer designated as the Head of Paid Service;
- (b) a statutory Chief Officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
- (c) a non-statutory Chief Officer within the meaning of section 2(7) of the 1989 Act;
- (d) a Deputy Chief Officer within the meaning of section 2(8) of the 1989 Act;

must not be made by the appointor until -

- (a) the appointor has notified the Proper Officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
- (b) the Chief Executive has notified every Member of the Executive of the authority of -
  - (i) the name of the person to whom the appointor wishes to make the offer;
  - (ii) any other particulars relevant to the appointment which the appointor has notified to the Proper Officer; and
  - (iii) the period within which any objection to the making of the offer is to be made by the Elected Mayor on behalf of the Executive to the Proper Officer; and

## **PART 4 RULES OF PROCEDURE**

### **8. EMPLOYMENT PROCEDURE RULES**

- (c) either -
  - (i) the Elected Mayor has, within the period specified in the notice under Sub-paragraph (b)(iii), notified the appointor that neither he/she nor any other Member of the Executive has any objection to the making of the offer;
  - (ii) the Proper Officer has notified the appointor that no objection was received by him/her within that period from the Elected Mayor; or
  - (iii) the appointor is satisfied that any objection received from the Elected Mayor within that period is not material or is not well-founded.

5A.3 In this Rule, "dismissor" means, in relation to the dismissal of an Officer of the authority, the authority or, where a Committee, Sub-Committee or another Officer is discharging the function of dismissal on behalf of the authority, that Committee, Sub-Committee or other Officer, as the case may be.

5A.4 Notice of the dismissal of

- (a) the Officer designated as the Head of Paid Service;
- (b) a statutory Chief Officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
- (c) a non-statutory Chief Officer within the meaning of section 2(7) of the 1989 Act;
- (d) a Deputy Chief Officer within the meaning of section 2(8) of the 1989 Act;

must not be given by the dismissor until -

- (a) the dismissor has notified the Chief Executive of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;

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**8. EMPLOYMENT PROCEDURE RULES**

- (b) the Chief Executive has notified every Member of the Executive of the authority of -
  - (i) the name of the person who the dismissor wishes to dismiss;
  - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the Proper Officer; and
  - (iii) the period within which any objection to the dismissal is to be made by the Elected Mayor on behalf of the Executive to the Proper Officer; and
  
- (c) either -
  - (i) the Elected Mayor has, within the period specified in the notice under Sub-paragraph (b)(iii), notified the dismissor that neither he/she nor any other Member of the Executive has any objection to the dismissal;
  - (ii) the Chief Executive has notified the dismissor that no objection was received by him/her within that period from the Elected Mayor; or
  - (iii) the dismissor is satisfied that any objection received from the Elected Mayor within that period is not material or is not well-founded.

**5B Appointment and dismissal of Officers other than Chief Officers and Deputy Chief Officers**

5B.1 Where the Council proposes to appoint or dismiss an officer other than as defined in Rule 5A above then the Council shall only appoint or dismiss in accordance with its policies relating to Appointment and Dismissal that it may have in place at any one time.



## **PART 4 RULES OF PROCEDURE**

### **8. EMPLOYMENT PROCEDURE RULES**

#### **6. Additional Rule in Relation to Appointment of Chief Executive**

Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as the Chief Executive (head of the authority's paid service), the authority must approve that appointment before an offer of appointment is made to that person.

#### **7. Discipline of the Chief Executive, Monitoring Officer and Chief Finance Officer**

7.1 Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority's paid service, as the authority's chief finance officer, or as the authority's monitoring officer, the authority must approve that dismissal before notice of dismissal is given to that person.

- 7.2
- (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 s28(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 Peoples Acts;
  - (e) 'the Panel' means a committee appointed by the authority under s102(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 officer' 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.

7.3 A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.

7.4 The authority 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.

## **PART 4 RULES OF PROCEDURE**

### **8. EMPLOYMENT PROCEDURE RULES**

- 7.5 In paragraph 7.4 'relevant independent person' means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.
- 7.6 Subject to paragraph 7.7, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 7.4 in accordance with the following priority order-
- (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
  - (b) any other relevant independent person who has been appointed by the authority;
  - (c) a relevant independent person who has been appointed by another authority or authorities;
- 7.7 An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 7.6 but may do so.
- 7.8 The authority must appoint any Panel at least 20 working days before the relevant meeting.
- 7.9 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular-
- (a) any advice, views or recommendations of the Panel;
  - (b) the conclusions of any investigation into the proposed dismissal; and
  - (c) any representation from the relevant officer.
- 7.10 Any remuneration, allowances, or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

## **PART 4 RULES OF PROCEDURE**

### **8. EMPLOYMENT PROCEDURE RULES**

#### **8. Additional Rules in Relation to Appointment of Political Assistants**

- (a) no appointment of a Political Assistant to a Political Group shall be made until such posts have been allocated to all Political Groups which qualify,
- (b) no Political Assistant will be allocated to a Political Group which does not qualify for one,
- (c) nor shall more than one Political Assistant be allocated to a Political Group,
- (d) notwithstanding Rule 8(a)-(c) a Political Assistant to the Mayor may be appointed at any time. The Mayor must notify the Council in writing of the name, and terms and conditions of any Political Assistant so appointed.
- (e) the prohibition on the involvement of Members of the Council in the appointment of Officers does not apply to the appointment of Political Assistants.

#### **9. Appeal Committees**

Nothing in Rule 1 shall prevent a person from serving as a Member of any Committee or Sub-Committee established by the authority to consider an appeal by -

- (a) another person against any decision relating to the appointment of that other person as a Member of staff of the authority; or
- (b) a Member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that Member of staff.

#### **10. Definitions**

In these Rules:

"the 1989 Act" means the Local Government and Housing Act;

"the 2000 Act" means the Local Government Act 2000;

"disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

"Elected Mayor" and "Executive" have the same meaning as in Part II of the 2000 Act;

## **PART 4 RULES OF PROCEDURE**

### **8. EMPLOYMENT PROCEDURE RULES**

"Member of staff" means a person appointed to or holding a paid office or employment under the authority; and

"Proper Officer" means an Officer appointed by the authority for the purposes of the provisions in this Part (the Officer appointed is the Chief Executive).

#### **Statutory and Guidance References**

**Local Government Act 1972 s112 and Schedule 12**

**Local Government and Housing Act 1989 s.7**

**1963 Model Standing Orders - Proceedings and Business of Local Authorities**

**Local Authority (Standing Orders) (England) (Amendment) Regulations 2015**

**Local Authority (Standing Orders) (England) Regulations 2001**

**Local Authority (Standing Orders) Regulations 1993**