

# Public Document Pack

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# CONSTITUTION

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**Date: May 2024**

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## West Suffolk Council

### Summary and Explanation

#### Introduction

West Suffolk Council provides a wide range of services to residents and businesses within its area. It is divided into 43 areas known as wards and there are 64 councillors (also known as members) who are elected by residents of the wards to represent them on the Council. Elections to the Council take place every four years.

Councils have legal powers and duties. Duties are things the Council must do – such as collecting household waste, or housing homeless people. Powers are things the Council can do, if it wishes. The Council also has a General Power of Competence, which allows it do things that any ordinary person can do. Many of the Council's powers and duties have to be delivered in accordance with specific legal acts, regulations and government guidance.

#### Purpose of the Constitution

The Constitution is a document that sets out the rules and guidance for how the Council makes decisions and carries out its business. It ensures that all Council activities are conducted in an open and transparent way, and are compliant with the laws and regulations the Council must comply with. The constitution is made up of:

- Articles – which explain the different parts of the decision-making structure and how the Council will operate;
- Responsibility for Functions – which shows which Councillors and Officers are responsible for which decisions;
- Rules of Procedure – which set out the way meetings will be run and the procedure for various Council functions; and
- Codes and Protocols – which guide how Councillors and Council staff should behave and act

The Council has to exercise its duties and powers in accordance with the law and this Constitution. Set out below is a brief summary of how the Council works.

#### Cabinet

The Council's decision-making structure is based on the Leader and Cabinet model. The Cabinet will make most of the decisions about how the Council carries out its business. The Leader is elected every four years by a vote of all councillors who will appoint up to nine other councillors, one of whom will also be Deputy Leader, to sit in the Cabinet and be responsible for particular areas (known as portfolios) of the Council's work. The Cabinet will collectively set the strategic aims of the Council, and ensure that it is delivering key priorities and programmes.

The Council publishes a Decisions Plan which shows what decisions the Cabinet is going to take that will affect local communities or involve expenditure or savings over a certain level. These are known as key decisions. The Plan also shows what decisions are going to be taken in private and why. There is more detail of how the Cabinet works in Part 2: Article 6 and Part 4: Cabinet Procedure Rules.

## **Council**

Some decisions, such as the level of Council Tax or the local plan, have to be taken by all the councillors meeting together as the Council. These meetings take place at least five times a year. More information about the Council's powers and procedures can be found in Part 2: Article 4 and Part 4: Council Procedure Rules.

## **Regulatory and Standards Committees**

### *Regulatory Committees*

The law gives the Council power to grant consents, licences and so on for such matters as planning and licensing. These powers are known as regulatory decisions and are exercised by committees of the Council, or delegated to Council officers to make. What these committees are and what they do is set out in Part 2: Article 8 and Part 3: Responsibility for Council (Non Executive) Functions.

### *Standards Committee*

There is a Standards Committee which is responsible for upholding high ethical standards in West Suffolk, including monitoring compliance with the Code of Conduct by all district, town and parish councillors in the area. Further details can be found in Part 2: Article 8 and Part 3: Responsibility for Council (Non Executive) Functions.

## **Scrutiny**

The Council has two committees whose role is to oversee the work of the authority. Overview and Scrutiny Committee can 'call in' Cabinet decisions for examination and it will also help the Council develop its policies. It can set up smaller groups to work on reviews and projects that benefit West Suffolk communities, and has the power to hold outside organisations to account.

The Performance and Audit Scrutiny Committee has responsibility for monitoring the Council's performance. It makes recommendations for how the Council should spend its budget and assesses the adequacy and effectiveness of the Council's internal and external auditors.

Further details of the work of these Committees can be found in Part 2: Article 7 and Part 4: Scrutiny Committees Procedure Rules.

## **Staff**

The Council's employees are commonly referred to as 'officers'. They perform a number of different roles, ranging from delivering the Council's services direct to the public, to giving professional advice, implementing decisions and managing the working of the Council. Some Officers have specific duties to ensure that the Council acts within the law. Officers operate in a politically neutral way. A protocol governs the relationship between Councillors and Officers. Officers do not vote on decisions made by the Council, Cabinet or its Committees.

## **The public's rights**

Residents of the Council's area have a number of rights in their dealings with the Council. Some are set out in law, others depend on the Council's own processes. Article 3 sets them out in more detail, but in brief they include:

- the right to elect the Councillors who will represent them on the Council, and to contact any Member of the Council about matters that concern them;
- access to Council documents such as this Constitution, policies, the Decisions Plan, reports, minutes and records of decisions made (subject to limited exceptions for things that the law permits the Council to treat as confidential);
- the right to attend open meetings of the Council, Cabinet and Committees and to speak at those where the Council's procedures allow public participation; and
- making their views known to the Council, whether as a comment, complaint or compliment or in response to a consultation.

The Council welcomes participation by the public in its work and aims to make its processes as transparent as possible. For further information on your rights, please contact the Council's Monitoring Officer on e-mail: [democratic.services@westsuffolk.gov.uk](mailto:democratic.services@westsuffolk.gov.uk) or telephone: 01284 757162.

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## **West Suffolk Council**

### **Article 1 – The Constitution**

#### **1.1 Powers of the Council**

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

#### **1.2 The Constitution**

This Constitution, and all its appendices, is the Constitution of West Suffolk Council.

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

The purpose of the Constitution is to:

- a) Enable the Council to provide clear leadership to the community in partnership with local people, businesses and other organisations and in accordance with the Council's vision and priorities.
- b) Support the active involvement of local people in the Council's decision-making process.
- c) Help Councillors represent people in their wards more effectively.
- d) Enable decisions to be taken efficiently, effectively and in an open and transparent way.
- e) Create an independent, powerful and effective means of holding decision-makers to public account.
- f) Ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions.

#### **1.4 Interpretation and review of the Constitution**

1.4.1 The Rules of Procedure which form Part 4 of the Constitution provide mechanisms for interpreting and operating the Constitution, including in cases of dispute.

1.4.2 Where the Constitution permits the Council to choose between different courses of action, the Council will choose the option which it thinks will be most likely to achieve the purposes set out in 1.3 above.

1.4.3 The Council will monitor and evaluate the operation of the Constitution as set out in Article 13.

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## West Suffolk Council

### Article 2 – Members of the Council

#### 2.1 Composition and eligibility

The Council comprises 64 Councillors who are elected by the voters of the district. There are 43 wards in the District and one or more Councillors will be elected to each ward in line with a scheme which was drawn up by the Local Government Boundary Commission for England and approved by Parliament.

To be eligible to stand for election as a Councillor, a person must:

- be at least 18 years old
- be a British citizen, an eligible Commonwealth citizen or a citizen of any member state of the European Union, and
- meet at least one of the following four qualifications:
  - (a) You are, and will continue to be, registered as a local government elector for the local authority area in which you wish to stand from the day of your nomination onwards.
  - (b) You have occupied as owner or tenant any land or other premises in the local authority area during the whole of the 12 months before the day of your nomination and the day of election.
  - (c) Your main or only place of work during the 12 months prior to the day of your nomination and the day of election has been in the local authority area.
  - (d) You have lived in the local authority area during the whole of the 12 months before the day of your nomination and the day of election.

#### 2.2 Elections and term of office

The regular election of Councillors is held on the first Thursday in May, every fourth year. The term of office of Councillors will start on the fourth day after being elected and finish on the fourth day after the date of the next regular election, with the exception of the Leader and Chair who will hold office until the Annual Meeting which follows the election. (Provisions for the resignation or removal of the Leader at other times are set out in Article 6).

#### 2.3 Roles and functions of councillors

2.3.1 The role and function of Councillors are set out in Section 3 of the Constitution (Member Role Descriptions).

2.3.2 Some Councillors are appointed to specific roles, such as chairing Committees or acting as a member of the Cabinet. These roles have a high level of responsibility associated with them, and can be very demanding on the Councillor's time. It is desirable that Councillors would only take up one special responsibility role (such as acting as Chair or Vice-Chair of another Council Committee) at any point. The Council recognises that there are some exceptional situations where it may be necessary for a Councillor to take on additional special responsibility roles to ensure all posts are filled by Councillors with sufficient experience, training or knowledge

## **2.4 Rights and duties**

2.4.1 Councillors have rights of access to Council documents, information, land and buildings as are necessary for them to be able to carry out their role properly and in accordance with the law.

2.4.2 Councillors will not make any information public if it is confidential or exempt without the consent of the Council, or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it.

2.4.3 For these purposes, 'confidential' and 'exempt' information are defined in the Access to Information Rules contained in Part 4 of the Constitution.

## **2.5 Conduct**

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

## **2.6 Allowances**

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

## West Suffolk Council

### Article 3 – The Public and the Council

#### 3.1 The public's rights

The Council is elected to serve its community. The public are at the heart of what we do as a Council, and their rights are set out in this article. Their rights to information and to attend meetings are explained in more detail in the Access to Information Procedure Rules in Part 4 of the Constitution.

- a) **Petitions** – residents who are on the electoral register for the area may sign a petition to request a referendum for an elected mayor form of constitution. They may then vote in that referendum, which will take place if at least 5% of the electorate sign that petition. This constitution also includes a petition scheme, which sets out the right of communities to petition the Council on matters that are important to them
- b) **Information** – the public has the right to:
  - (i) Obtain a copy of the Council's Constitution.
  - (ii) Attend meetings of the Council, Cabinet and Committees except where confidential or exempt information is likely to be discussed and the meeting is, for that reason, held in private.
  - (iii) See the Decisions Plan to find out what key decisions will be taken by the Cabinet, its Committees, or Officers, and when.
  - (iv) Find out from the Decisions Plan when the Cabinet, its Committees or Officers will consider any matters in private.
  - (v) See reports and background papers, and any records of decisions made by the Council, Cabinet or Officers subject to the usual rules regarding confidential or exempt information.
  - (vi) Inspect the Council's accounts and make their views on them known to the external auditor.
- c) **Participation** – the public has the right to address the Development Control and Licensing and Regulatory Committees on specific applications and contribute, by invitation, to investigations and public inquiries undertaken by the scrutiny committees. People who live or work in the Council's area have the right to participate in Public Question Time at other meetings in accordance with the protocol set out in the Council and Committee Procedure Rules in Part 4 of the Constitution.

- d) **Consultation** - the public has the right to respond to consultations initiated by the Council, and the right for their views to be taken into account when decisions are made based on the consultation.
- e) **Complaints** – the public has the right to complain to:
  - (i) The Council itself under its complaints scheme [[Comments, Compliments and Complaints](#)]
  - (ii) The Local Government Ombudsman, if the complaint has not been resolved by the Council’s own complaints scheme.
  - (iii) The Monitoring Officer about a breach of the Members’ Code of Conduct set out in Part 5 of the Constitution.
- f) **Whistleblowing** – the public has the right to bring to the Council’s attention any concerns about corruption or bad practice. Details are available in the Whistleblowing Policy [[Whistleblowing Policy](#)]

### **3.2 The public’s responsibilities**

West Suffolk Council encourages the public to exercise their democratic rights, whether voting in elections, responding to consultations or speaking at Committees. This input to the work of the Council is vital to enable us to discharge our functions effectively.

We welcome that the vast majority of people exercise their rights in the manner that would be expected in a civil society – respecting the norms of public debate, and seeking to input their views in a constructive way.

## West Suffolk Council

### Article 4 – The Council

#### 4.1 Meaning

The Council means every Councillor of West Suffolk Council meeting together. By law, there are some things that only the Council has the power to do and other matters are allocated to the Council by this Constitution.

#### 4.2 Functions of the Council

Only the Council meeting as a whole will exercise the following functions:-

- a) Adopting and changing the Constitution.
- b) Approving and adopting the policy framework (see below).
- c) Approving and adopting the budget (see below).
- d) Approving for the purposes of public consultation draft proposals associated with the preparation of or alterations to, or the replacement of, the local development framework.
- e) Subject to the urgency procedure set out in the Budget and Policy Framework Procedure Rules in Part 4 of the Constitution making decisions about any matter in the discharge of a Cabinet function which is covered by the policy framework or budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to or not wholly in accordance with the budget.
- f) Electing the Leader, removing by resolution and electing a replacement in accordance with Article 6.
- g) Approving proposals from Committees of the Council for their terms of reference and any changes to them.
- h) Determining the political balance of the Council and the allocation of seats in accordance with it or in some other way as the Council sees fit (without any Member voting against).
- i) Adopting a Members' Allowance Scheme.
- j) Appointing Councillors to outside bodies unless this is a function of the Cabinet or has been delegated by the Council.
- k) Approving the appointment or dismissal of the Head of Paid Service.
- l) Changing the name of the area.
- m) Any Electoral matters requiring a decision by the Council.
- n) Approving orders to alter the governance arrangements of any Parished area within the District.
- o) Conferring the title of Honorary Alderman or the Honorary Freedom.

- p) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills.
- q) All Local Choice Functions set out in Part 3 of this Constitution which the Council decides should be taken by itself rather than the Cabinet.
- r) To authorise funding from the Council's Capital Investment Fund, over the value of £2m (in line with the Council's Growth Investment Strategy).
- s) All other matters which, by law, must be reserved to the Council.

### **4.3 Council Meetings**

There are four types of Council meeting:-

- a) The Annual Meeting.
- b) Ordinary meetings.
- c) Extraordinary meetings; and
- d) Special meetings.

and these will be conducted in accordance with the law and with the Council Procedure Rules set out in Part 4 of this Constitution.

### **4.4 The policy framework**

The policy framework means the following plans and strategies:-

- a) Those required by legislation to be adopted by the Council.
- b) Policies and strategies which the Government recommends should be adopted by the Council; and
- c) Policies and strategies to be adopted by the Council as a matter of local choice.

The above policies and strategies include:-

- Corporate or Strategic Plan
- Plans and strategies which together comprise the Local Plan
- Asset Management Plan
- Pay Policy Statement
- Licensing Act Statement of Policy
- Gambling Act Statement of Principle

It may also be appropriate for some regional or sub-regional policies or strategies to be considered by the Council, to be decided on a case-by-case basis.

### **4.5 The budget**

The Council will be responsible for the adoption of its budget. Once the budget is in place it will be the responsibility of the Cabinet to implement it.



The budget comprises:-

- revenue budget
- capital programme
- medium term financial strategy (covering revenue and capital)
- prudential indicators including borrowing limits
- treasury management and investment strategy

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

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## West Suffolk Council

### Article 5 – Chairing the Council

#### 5.1 Role and function of the Chair

The Chair and Vice Chair will usually be elected annually by the Council. In the event that the Council's Annual Meeting is cancelled, deferred or delayed, the Chair and Vice-Chair shall continue to serve until such time that the Council appoints a successor.

Neither the Chair nor Vice Chair may be a member of the Cabinet. It would not normally be expected for the Chair to act as Chair of any other Committees during their term of office.

The role and function of the Chair is to maintain an apolitical stance at all times, in that they are to serve as a representative of the whole Council during their term of office, and not seek to favour any political group or organisation.

The Chair and, in their absence, the Vice Chair have the following roles.

#### 5.2 Procedural role

The Chair:-

- a) Will chair meetings of the Council so that its business can be carried out efficiently in accordance with the Council Procedure rules and with regard to the rights of Councillors and the interests of the community.
- b) Will uphold and promote the purposes of the Constitution and interpret the rules of procedure at Council meetings.
- c) Will ensure that Council meetings are a forum for the debate of matters of concern to the community and one of the places at which Councillors who are not on the Cabinet are able to hold the Cabinet to account.
- d) Should exercise their casting vote with appropriate caution. A casting vote is only called upon when Members cannot reach a majority and due respect should be given to the lack of consensus. However, the Chair is ultimately entitled to exercise their vote as they consider appropriate.

#### 5.3 Civic and ceremonial role

The Chair is the ceremonial head of the Council and will be its representative at civic and ceremonial events. This part of the role includes:-

- a) Representing and promoting the whole district during their term of office.
- b) Enhancing the image of the district.
- c) Encouraging understanding of the Council's role, priorities and partnerships.
- d) Promoting public involvement in the Council's activities.

## West Suffolk Council

### Article 6 – The Cabinet

#### 6.1 Role

6.1.1 The Leader, Deputy Leader and the Portfolio Holders are collectively known as the Cabinet and will make executive decisions. The Leader and Cabinet will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

#### 6.2 Form and Composition

6.2.1 The Cabinet will comprise the Leader and between two and nine other Councillors appointed to the Cabinet by the Leader, one of whom shall be designated Deputy Leader and all of whom are to be known as Portfolio Holders. Only Councillors will be appointed to the Cabinet. There will be no co-optees, no deputies and no substitutes for Cabinet members. The Leader and Portfolio Holders may not be members of any Scrutiny Committee. The Chair and Vice Chair of the Council may not be members of the Cabinet.

6.2.2 The Leader and Portfolio Holders may agree to establish Working Groups or nominate other members or co-opted members to advise and support them in the discharge of their duties, as they consider appropriate. Such arrangements cannot assign decision making responsibilities and as such would not be subject to the normal rules of debate or Access to Information Procedure Rules.

#### 6.3 The Leader

6.3.1 The Leader will be a Councillor elected to the position by the Council at its first Annual Meeting following the local government elections. The Leader will hold office until:-

- a) The next post-election annual meeting of the Council; or
- b) They resign from the office of Leader; or
- c) They are removed from office by ordinary resolution on notice of the Council; or
- d) They are no longer a Councillor.

6.3.2 When a vacancy arises in the office of the Leader, the Council shall fill the vacancy at the next ordinary meeting of the Council, or at a special or extraordinary meeting summoned for the purpose. Or, if the vacancy occurs as a result of the removal of the Leader by resolution of the Council, at the

meeting at which that resolution was passed or a subsequent meeting. The Councillor appointed to fill the vacancy shall hold office for the remainder of the original term, subject to the rules on earlier termination in 6.3.1 above.

6.3.3 The Leader shall appoint another member of the Cabinet as Deputy Leader to act when the Leader is unable to act or the office of Leader is vacant. The Leader may remove the Deputy Leader from office at any time. Where there is a vacancy in the office of Deputy Leader, the Leader must appoint another person to be Deputy Leader. Unless removed by the Leader, resigns as Deputy Leader or ceases to be a Member of the Council, the Deputy Leader shall hold office until the end of the Leader's term of office.

#### **6.4 Other Cabinet Members (the Portfolio Holders)**

6.4.1 The Leader will usually announce the Portfolio Holders and their Portfolio responsibilities at the Annual Meeting of the Council. Re-appointments, appointments and the removal of Portfolio Holders announced in this way will take immediate effect. If the announcement is not made at the Annual Meeting, the Leader will give written notice to the Monitoring Officer of the Portfolio Holders and their responsibilities as soon as practicable after the Annual Meeting and the re-appointments, appointments and removals made in this way will take effect two working days after receipt of the notice by the Monitoring Officer.

6.4.2 The Leader may also appoint Portfolio Holders during the municipal year to fill any vacancy or increase the size of the Cabinet (up to the maximum number set out in 6.2.1 above) by giving written notice to the Monitoring Officer. These appointments shall take effect two working days after receipt of the notice by the Monitoring Officer.

6.4.3 Portfolio Holders shall hold office until:-

- a) They resign from office; or
- b) They are no longer Councillors; or
- c) They are removed by means of the Leader's notification at, or as soon as practicable after, the next Annual Meeting; or
- d) They are removed from office by the Leader giving written notice of the removal to the Monitoring Officer. The removal will take effect two working days after receipt of the notice by the Monitoring Officer.

6.4.4 If for any reason the Leader is unable to act or the office of Leader is vacant and the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the Cabinet must act in

the Leader's place or must arrange for a Portfolio Holder to act in their place.

## **6.5 Functions of the Cabinet**

6.5.1 The Cabinet has the following functions:-

- a) To make 'Key Decisions' as defined in Article 11 and published in the Decisions Plan.
- b) To formulate the budget and policy framework for submission to Council in accordance with the Budget and Policy Framework Procedure Rules in Part 4 of the Constitution.
- c) To implement the approved budget and policy framework.
- d) To determine recommendations and other matters referred to it by Committees, Sub-committees or Council.
- e) To carry out all of the executive functions, which by law, must be carried out by Cabinet or which the Cabinet has chosen to carry out and which have not been delegated elsewhere.
- f) To ensure the publication of, and to consider, the plan of items likely to come before it for decision at least 28 days before the decision is due to be made.
- g) To authorise funding from the Council's Capital Investment Fund, up to the value of £2m (in line with the Council's Growth Investment Strategy).

6.5.2 The Cabinet may carry out its functions:-

- a) Itself.
- b) By delegating power to an individual Member of the Cabinet, to be exercised in accordance with the rules in Appendix B to this Article 6.
- c) By delegating power to an Officer, who shall exercise that power in accordance with the Scheme of Delegation to Officers contained in Part 3 of the Constitution;
- d) By delegating power to a joint committee, area committee or another local authority.

6.5.3 The list of portfolio responsibilities will be maintained by the Leader and will set out which individual Members of the Cabinet, Officers and joint arrangements are responsible for the exercise of particular Cabinet functions. The full list is in Part 3 of the Constitution and a brief list of portfolio responsibilities forms Appendix A to this Article 6. The Leader is empowered to amend the portfolios during the administrative year.

## **6.6 Meetings of the Cabinet**

- 6.6.1 The Cabinet will hold public meetings as frequently as is required for the effective discharge of its functions on dates and at times agreed by the Leader. Meetings will be conducted in accordance with the Cabinet Procedure Rules set out in Part 4 of the Constitution.
- 6.6.2 To ensure it is briefed and/or consulted upon its functions, the Cabinet may hold other informal (not public) meetings as are necessary for it to carry out its work effectively. However, to ensure transparency and facilitate good scrutiny, matters discussed at these meetings that are intended to be put to Cabinet or Council for decision will, unless a decision is required urgently, be included in the Decisions Plan which is referred to the appropriate Committee (normally a Scrutiny Committee) before a recommendation is made to Cabinet/Council (see Article 7 (Scrutiny Committees)).



## **Appendix A**

### **List of Portfolio Responsibilities**

#### **The Leader**

- Leadership and strategic direction of the Council
- External relations and communications

#### **Deputy Leader**

- To deputise for the Leader

#### **Families and Communities**

- Communications
- Crime and community safety
- Customer Services
- Equality and diversity
- Families and communities
- Health
- Safeguarding
- ICT (including customer/community experience)

#### **Governance and Regulatory**

- Environmental Health
- Licensing
- Climate Change
- Housing standards (in conjunction with the Portfolio Holder for Housing)
- Democratic services (including Civic Office)
- Electoral services
- Legal
- Health and Safety
- HR and organisational development
- Emergency planning

#### **Growth**

- Economic development and business growth
- Strategic planning
- Place delivery and strategic property
- Strategic tourism
- Town centres

#### **Housing**

- Strategic housing
- Strategic health (including co-ordination with health partners)
- Public health
- Housing and homelessness
- Barley Homes
- Housing standards (in conjunction with the Portfolio Holder for Governance and Regulatory)

**Leisure**

- Heritage and culture
- Parks and open spaces
- Sport
- Abbeycroft Leisure
- Development of community hubs

**Operations**

- Car parking
- CCTV
- Cemeteries
- Fleet management
- Grounds maintenance
- Land drainage
- Markets
- Operations
- Public conveniences
- Refuse and recycling
- Street scene
- Tourism operations

**Planning**

- West Suffolk Local Plan
- Housing delivery rates
- Building control
- Enforcement
- Planning development
- Conservation

**Resources**

- Business development and commercialisation
- Financial services
- Internal audit
- Performance and risk management
- Procurement
- Property and estates management

## **Appendix B**

### **Procedure for decision-making by individual Portfolio Holders**

1. Individual Cabinet members are empowered (subject to the exceptions listed below) to make Cabinet decisions within the Policy and Budget Framework in respect of their own portfolio area of responsibility.
2. Individual Cabinet members are empowered to authorise funding from the Council's Capital Investment Fund, up to the value of £0.5m (in line with the Council's Growth Investment Strategy).

The exceptions are as follows:

- (a) A decision that is a departure from the agreed Strategic Plan except where this falls within current agreed policy.
  - (b) Decisions solely in relation to the Cabinet Member's own ward including, for example, making a grant, unless this is agreed by the Leader. This does not prevent the use of the Cabinet Member's Locality Budget.
  - (c) Where the Leader has indicated before a decision is either taken by the Portfolio Holder or implemented that he requires the decision to be taken collectively by the Cabinet. Notification of this by the Leader must be made to the Director (HR, Governance and Regulatory).
  - (d) A decision in which the Cabinet member has either a disclosable pecuniary interest or some other conflict of interest.
  - (e) Those decisions delegated to an officer unless the officer refers the decision to the Cabinet member.
  - (f) A decision which in the view of the Chief Executive is one which should properly be treated as a key decision (except where it is funded from the Capital Investment Fund, where it may be made by the Portfolio Holder in accordance with 2. above).
3. The Cabinet may delegate any decision to an individual Cabinet member who must then follow the procedure in this document in making that decision.
  4. The decisions must be made in consultation with officers deemed appropriate by the Chief Executive and the Cabinet member must take into account the professional, legal and financial implications and any advice given by those officers.

5. Where there are significant cross-cutting implications across more than one portfolio, the decision should be made in consultation with other appropriate Portfolio Holder(s).
6. Where a decision has significant impact on an individual ward the Cabinet member should consult the appropriate Ward member, prior to a decision being made.
7. Where it is not clear in which portfolio an issue sits, the Leader shall decide. If the appropriate portfolio holder is unavailable and a decision needs to be taken urgently, then the Leader may take the decision in consultation with the Chief Executive.

### **Notification and Publication**

Wherever possible, five clear working days' notice of the intention to make a decision under these delegated powers will be given to all Members of the Council, by notice sent electronically and published on the Council's website together with any supporting report.

Where five clear working days' notice is not practicable for exceptional reasons relating to the urgent need to action the decision the Cabinet Member should give notification of the intent to make the decision as soon as possible explaining the reasons for the short notice.

The decision must be recorded on the appropriate form prepared and published by Democratic Services. The decision will be published and may not be implemented until after either:

- the call-in period (five working days after the date of publication) has expired; or
- a call-in process has been completed.

Call-in, using the procedure in the Council Procedure Rules, may be made within five days of the decision being published and the usual process shall be followed.

## West Suffolk Council

### Article 7 - Scrutiny Committees

#### 7.1 Introduction

7.1.1 Effective overview and scrutiny is essential to enhance the accountability and transparency of the decision-making process. The Council has appointed an Overview and Scrutiny Committee and a Performance and Audit Scrutiny Committee to discharge the functions conferred by Section 9F of the Local Government Act 2000 and any regulations. The Committees will discuss issues in public and take a cross-cutting approach to their work. In accordance with Section 9FA of the above Act they may appoint one or more sub-committees to carry out any of their functions. They will seek to improve the delivery of policies and services by:-

- (a) Holding the Cabinet to account for its actions.
- (b) Advising on the development and implementation of new policy and corporate projects.
- (c) Testing whether existing policies and practices are effective and efficient and suggesting how they might be improved; and
- (d) Ensuring the rigour and objectivity of performance management and service reviews.

7.1.2 The Performance and Audit Scrutiny Committee will have the specific role of monitoring the budget and it oversees the performance of services by considering a range of information such as performance indicators, inspection reports and action plan monitoring. It approves the Council's Statement of Accounts and is also the Council's audit committee. This Committee also carries out the Treasury Management functions set out in detail in the Scrutiny Committees Procedure Rules in Part 4 of this Constitution.

#### 7.2 The Overview and Scrutiny Committee

7.2.1 The Council will appoint an Overview and Scrutiny Committee of up to 16 members and it will normally be politically balanced. No member of the Cabinet may be a member of the Overview and Scrutiny Committee.

7.2.2 The primary purpose of the Committee is to improve the delivery of services provided to West Suffolk communities. To do this it can exercise the following **General Roles**:

- (a) Review and scrutinise decisions made or actions taken in connection with the discharge of functions by the

- Council and other service providers in West Suffolk (subject to 7.9.1(h) below).
- (b) Make reports and recommendations to the Council and the Cabinet in connection with the discharge of any functions of the Council.
  - (c) Consider any matter affecting the area or its inhabitants.
  - (d) Question Members of the Cabinet and Officers about their views on issues and proposals affecting the area.
  - (e) Liaise with external organisations operating in the area, whether national, regional or local, to ensure the interests of local people are enhanced by collaborative working.
  - (f) Exercise the right to "call in", for reconsideration, decisions made but not yet implemented by the Cabinet, in accordance with the rules set out in Part 4 of this Constitution; and
  - (g) Consider any Councillor Calls for Action referred to it in accordance with the Protocol.
  - (h) Consider any matter which has been placed on the agenda of the committee by any member of the committee in accordance with the Rules of Procedure in Part 4 of this Constitution.
  - (i) Act as the Crime and Disorder Committee for the purposes of Section 19 of the Police and Justice Act 2006.

### 7.2.3 **Scrutiny Role**

Within its terms of reference, the Overview and Scrutiny Committee may:-

- (a) Review and scrutinise the decisions made by, and the performance of, the Cabinet, Committees and Council Officers both in relation to individual decisions and over time.
- (b) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas, and carry out performance management reviews.
- (c) Review the adequacy of policies and practices to ensure compliance with statutory and other guidance.
- (d) Question Members of the Cabinet, Committees and Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects.
- (e) Make recommendations to the Cabinet and/or the appropriate Committee arising from the scrutiny process.
- (f) Review and scrutinise the performance of other public bodies in the area and invite reports from them by

requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance and issues of wider concern.

- (g) Question and gather evidence from any person (with their consent).
- (h) Assist the Council and the Cabinet in the development of the policy framework by detailed analysis of policy issues and options, including research, and community and other consultation.
- (i) Consider and implement mechanisms to encourage and enhance community participation in the development of policy options; and
- (j) Consider how collaborative working with external organisations can enhance the interests of local people.

7.2.4 For specific issues, the above work can be carried out by task and finish groups, which will be appointed and managed by the Committee. These groups will draw upon the knowledge and expertise of all Members of the Council.

#### 7.2.5 **Holding the Cabinet to Account**

The Overview and Scrutiny Committee will hold the Cabinet to account for the discharge of its functions. The principal elements by which it will do this are as follows:-

- (a) Scrutinising decisions which the Cabinet is planning to take, as set out in the Decisions Plan or of which proper notice is given (including decisions referred to it in accordance with paragraph 6.6.2 of Article 6).
- (b) Scrutinising decisions of the Cabinet and individual Portfolio Holders before they are implemented and if necessary using the "call-in" mechanism to require the decision taker to reconsider the earlier decision.
- (c) Scrutinising decisions of the Cabinet or Portfolio Holders after they have been implemented as part of a wider review.

### **7.3 Performance and Audit Scrutiny Committee**

7.3.1 The Council will also appoint a Performance and Audit Scrutiny Committee of up to 12 members, which will normally be politically balanced. Within its terms of reference the Committee will monitor and scrutinise the performance of the Council's services by having regard to a variety of information, including performance indicators, financial information, reports from external inspections, audit reports, and monitoring of action plans. No member of the Council's Cabinet may be a member of the Performance and Audit Scrutiny Committee.

7.3.2 The Committee will also assist the Council and the Cabinet in the development of the budget framework and act as the Council's Audit Committee, and the nature of this role is specified in the Scrutiny Committees Procedure Rules in Part 4 of this Constitution.

#### **7.4 Finance**

7.4.1 The Overview and Scrutiny Committee and Performance and Audit Scrutiny Committee may exercise overall responsibility for any finances made available to them.

#### **7.5 Annual Report**

7.5.1 The Overview and Scrutiny Committee and the Performance and Audit Scrutiny Committee must report annually to the Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

#### **7.6 Officers**

7.6.1 The Overview and Scrutiny Committee and the Performance and Audit Scrutiny Committee may exercise overall responsibility for the work programme of any Officers employed to support their work.

#### **7.7 Proceedings of the Committees**

7.7.1 The Overview and Scrutiny Committee and the Performance and Audit Scrutiny Committee will conduct their proceedings in accordance with the Scrutiny Committees Procedure Rules set out in Part 4 of this Constitution.

#### **7.8 Work Programme**

7.8.1 The Rules of Procedure in Part 4 of this Constitution will also provide mechanisms to allow all Members of the Council the opportunity to place an item on the agenda of the Overview and Scrutiny Committee and the Performance and Audit Scrutiny Committee.

7.8.2 When practicable, the Overview and Scrutiny Committee will publish a forward work programme or list of items likely to be considered over the next four months.

#### **7.9 Working Methods**

7.9.1 The following principles should be adhered to by the Overview and Scrutiny Committee and the Performance and Audit Scrutiny Committee when carrying out their work:-



- (a) A variety of different approaches and formats for meetings may be used.
- (b) 'Task and finish' groups reporting periodically and at the end of reviews to the Overview and Scrutiny Committee should be encouraged as the preferred method of scrutiny reviews.
- (c) Membership of the Committees and their sub groups (if applicable) should be tailored to ensure appropriate skills and expertise, and external input, are brought to bear.
- (d) When appropriate, full consultation with all other stakeholder groups and organisations should take place.
- (e) The declaration of interest rules shall apply.
- (f) The imposition of the Party Whip is regarded as incompatible with the work of the Council's Scrutiny Committees.
- (g) The Chair and Vice-Chair of each Scrutiny Committee will meet at least quarterly with the Leader and Deputy Leader of the Council to ensure that the work of these Committees is properly co-ordinated; and
- (h) Where any Scrutiny Committee is reviewing the work of a Regulatory or other Committee of the Council (as opposed to the Cabinet) it will not scrutinise individual decisions made by such Committees, particularly decisions in respect of development control, licensing, registration, consents and other permissions. In particular, scrutiny will not be an alternative to normal appeals procedures. However, the Overview and Scrutiny Committee has the power to make reports and recommendations on functions which are not the responsibility of the Cabinet, an option normally to be used as part of wider policy reviews.

## **7.10 Support**

7.10.1 In order that the Overview and Scrutiny Committee can perform its roles properly, it shall be given the following support:-

- (a) Effective and properly resourced support from officers.
- (b) Appropriate financial resources.
- (c) Access to the advice of the Council's Monitoring Officer.
- (d) The ability to require Members of the Cabinet and officers to attend to answer questions.
- (e) Specific training and development for all persons who undertake overview and scrutiny duties; and
- (f) The Decisions Plan, containing details of all the matters likely to be the subject of key decisions, or to be considered in private by the Cabinet, or its Committees or by Officers, shall be made available to

all Members of the Overview and Scrutiny Committee.

7.10.2 In order that the Performance and Audit Scrutiny Committee can perform its role properly it shall also be given the following support:-

- (a) Effective and properly resourced support from officers.
- (b) Appropriate financial resources.
- (c) Access to external auditors who report direct to the Committee and to the Internal Audit Service Manager; and
- (d) Specific training and development as required.

## West Suffolk Council

### Article 8 – Regulatory and Standards Committees

#### 8.1 Regulatory Committees

8.1.1 The Council must appoint Committees to deal with functions such as licensing, town and country planning controls and any other functions which by law are not to be functions of the Cabinet or Council. Although a brief summary of their main areas of work is set out below, all the functions discharged by these Committees is set out in detail in Part 3 of this Constitution.

#### 8.2 Development Control Committee

8.2.1 This Committee is responsible for matters relating to the control of the use of land including planning and listed building consent, the preservation of buildings and trees, conservation areas and enforcement.

#### 8.3 Licensing and Regulatory Committee

8.3.1 This Committee's responsibilities include regulating the sale of alcohol, the provision of public entertainment and gambling, and taxis/private hire vehicles and drivers.

#### 8.4 Standards Committee

8.4.1 This Committee's role is to seek to promote the upholding of high standards of conduct by elected Councillors in West Suffolk, including Parish and Town Councillors. They may also review complaints that Councillors have breached the Code of Conduct. The terms of reference for this Committee is set out in Part 3 of the Constitution.

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## West Suffolk Council

### Article 9 - Joint Arrangements and Working Groups

#### 9.1 Arrangements to Promote Wellbeing

9.1.1 The Council or the Cabinet, in order to promote the economic, social or environmental wellbeing of its area or to carry out activities under the general power of competence may:-

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

subject in all cases to compliance with statutory requirements.

#### 9.2 Joint Arrangements

9.2.1 The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions in any of the participating authorities. Such arrangements may involve the appointment of a joint committee with such other local authorities.

9.2.2 The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with such other local authorities.

9.2.3 Except as set out in 9.2.4 below, the Cabinet may only appoint Cabinet Members to a joint committee and those Members need not reflect the political balance of the Council as a whole.

9.2.4 The Cabinet may appoint Members to a joint committee from outside the Cabinet in any of the following cases:

1. Where the joint committee has functions for only part of the area of the Council and that area is smaller than two-fifths of the Council by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a Member for a Ward which is wholly or partly contained within that part of the area of the Council.

2. The joint committee is discharging a function in relation to five or more authorities.
3. The function which the joint committee is discharging is one which is required by statute to be discharged by a joint committee.

The political balance requirements do not apply to such appointments.

9.2.5 Details of any joint arrangements, including any delegations to joint committees will be found in the Council's Scheme of Delegations in Part 3 of this Constitution.

### **9.3 Working Groups**

9.3.1 The Council, Cabinet or Committees may appoint from time to time such Working Groups as they think fit. The Working Groups which have been appointed are identified in Part 3 of this Constitution.

### **9.4 Access to Information**

9.4.1 The Access to Information Rules in Part 4 of this Constitution apply to any joint arrangements.

9.4.2 If all the members of a joint committee are members of the Cabinet in each of the participating authorities then the Access to Information regime of the joint committee will be the same as that applied to executives.

9.4.3 If the joint committee contains members who are not on the Cabinet in any participating authority, then the Access to Information Rules in Part VA of the Local Government Act 1972 (as amended) will apply.

### **9.5 Delegation to and from Other Local Authorities**

9.5.1 The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.

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

9.5.3 The decision whether or not to accept similar delegations from another local authority shall be reserved to the full Council.

## **9.6 Contracting Out**

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

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## West Suffolk Council

### Article 10 - Officers

#### 10.1 Management Structure

10.1.1 Appointment of staff below Chief Officer level is the responsibility of the Head of Paid Service or their nominee.

- (a) **General** - The Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers** - The Council will engage persons who will be designated Chief Officers as described in the Officer Employment Procedure Rules in Part 4 of this Constitution. The appointment of Chief Officers, other than the Head of Paid Service, will be undertaken on the Council's behalf by the Officer Appointments Committee.
- (c) **Head of Paid Service, Chief Finance Officer (s151 Officer) and Monitoring Officer** - These posts will have the functions described in Article 11.2 - 11.4 below. The duties of the Monitoring Officer and the Chief Finance Officer can be carried out by a deputy, nominated by them, in cases of absence or illness.
- (d) **Structure** - The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and the deployment of officers.

#### 10.2 Functions of the Head of Paid Service

10.2.1 **Discharge of functions by the Council** - The Head of Paid Service will report to Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grades of Officers required for the discharge of functions and the organisation of these Officers.

10.2.2 **Restriction on functions** - The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

### **10.3 Functions of the Monitoring Officer**

- 10.3.1 **Monitoring the Constitution** - The Monitoring Officer will monitor and evaluate the operation of the Constitution to ensure that its aims and principles are given full effect.
- 10.3.2 **Ensuring lawfulness and fairness of decision-making** - After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Council, the Cabinet (in relation to an executive function) or the relevant committee if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 10.3.3 **Supporting the Standards Committee** - The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- 10.3.4 **Considering Complaints** - The Monitoring Officer will consider allegations that Parish, Town and District Councillors have breached the Code of Conduct in accordance with a protocol agreed by the Standards Committee, and make recommendations as necessary to improve standards of conduct.
- 10.3.5 **Access to Information** - The Monitoring Officer will ensure that there are procedures in place to ensure that the Access to Information Procedure rules are adhered to.
- 10.3.6 **Advising whether Executive decisions are within the budget and the policy framework** - The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- 10.3.7 **Providing advice** - The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.
- 10.3.8 **Restriction on posts** - The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

### **10.4 Functions of the Chief Finance Officer**

- 10.4.1 **Ensuring lawfulness and financial prudence of decision-making** - After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council, or the Cabinet in relation to an

executive function and the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

- 10.4.2 **Administration of financial affairs** - The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- 10.4.3 **Contributing to corporate management** - The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- 10.4.4 **Providing advice** - The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- 10.4.5 **Give financial information** - The Chief Finance Officer will ensure that financial information about the Council is provided in accordance with the Access to Information Procedure Rules and Local Government Transparency Code.

## **10.5 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer**

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

## **10.6 Conduct**

- 10.6.1 Officers will comply with the Officers' Code of Conduct and the protocol on Officer/Member relations set out in Part 5 of this Constitution.

## **10.7 Employment**

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

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## West Suffolk Council

### Article 11 – Decision-Making

#### 11.1 Responsibility for Decision-Making

11.1.1 The Council will issue, and keep up-to-date, a scheme confirming which committees and individuals have responsibility for making particular types of decisions. This scheme is set out in Part 3 of this Constitution.

#### 11.2 The Principles of Decision-Making

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

- (a) The decision must be reasonable within the common meaning of the word, i.e. it must be a rational decision based on sound judgement.
- (b) The decision must also be reasonable within the legal meaning of "reasonableness" i.e. all relevant considerations must be fully taken into account in reaching the decision and all irrelevant ones disregarded.
- (c) In the case of 'quasi-judicial' decisions (e.g. a decision as to whether or not to grant a licence) a fair hearing conducted in accordance with the rules of natural justice should be afforded to the person who is the subject of the decision.
- (d) The decision must be proportionate (i.e. the action should be proportionate to the desired outcome).
- (e) Decisions should be taken on the basis of due consultation and professional advice from Officers.
- (f) Human rights must be respected and consideration must be given as to whether the decision will give rise to any implications under the Human Rights Act 1998 and the European Convention on Human Rights.
- (g) Decisions must be taken in compliance with the Council's schemes of delegation, financial rules and instructions relating to contracts.
- (h) When making decisions a presumption in favour of openness must be applied and a clarity of aims and desired outcomes must be displayed.
- (i) Careful consideration should always be given as to whether there is an interest that should be declared; and
- (j) In the case of executive decisions taken by the Cabinet, or an individual Member of the Cabinet, or an Officer (where the decision is closely connected with the Cabinet), a proper record of the decision must be made together with a record of the reasons for the

decision, details of any alternative options considered and rejected and any conflicts of interest.

### **11.3 Types of Decision**

11.3.1 **Decisions reserved to Council** - Decisions relating to the functions listed in Article 4.2 will be made by the whole Council and not delegated.

#### **11.3.2 Key Decisions**

11.3.2.1 A key decision is an executive decision that either:

- a) Results in new expenditure, or a reduced income or savings of more than £100k in any one year that has not otherwise been included in the Council's revenue or capital budgets.
- b) Comprises or includes the making, approval or publication of a draft or final scheme, which is not a routine business decision, that may require, either directly or in the event of objections, the approval of a Minister of the Crown.
- c) Results in the formation of a new company, limited liability partnership or joint venture
- d) Has a potentially detrimental impact on communities outside of West Suffolk District.
- e) Is a decision that is significant in terms of its effect on communities living or working in a definable local community in the District, or on one or more wards, in that it will:
  - (i) Have a long-term, lasting impact on that community; or
  - (ii) Restrict the ability of individual businesses or residents in that area to undertake particular activities; or
  - (iii) Removes the provision of a service or facility for that community; or
  - (iv) Increases the charges payable by members of the community to provide a service or facility by more than 5%; or
  - (v) Have the potential to create significant local controversy or reputational damage to the Council
- f) A matter that the decision maker considers to be a key decision.

11.3.2.2 Any matters that fall under the scope of e) above must be subject to consultation with the local Member(s) in Wards that are likely to be impacted by the decision prior to the decision being made.

11.3.2.3 A key decision shall not be made unless:

- The decision maker has followed the requisite procedure to publicise the forthcoming decision as required by the Access to Information Procedure Rules.
- The decision maker has, on the date the decision is made or as soon as practicable thereafter, published a notice setting out the reasons for the decision and any conflicts of interests declared, as required by Local Government (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012.
- A period of five clear days has elapsed following the publication of the decision to allow for a call-in by members as required by the Scrutiny Committee Procedure Rules.

11.3.2.4 Further to any statutory guidance, the Council considers that the key decision threshold above shall also be considered as an "executive decision" for the purposes of Part 4 of the Local Government (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012

#### **11.4 Urgent key decisions**

11.4.1 Provisions for taking key decisions in cases of urgency where they have not been included in the Decisions Plan are set out in the Access to Information Procedure Rules (Part 4) and Scheme of Delegation (Part 3) in this Constitution.

#### **11.5 Decision-Making by the Council**

11.5.1 Subject to Article 11.9, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### **11.6 Decision-Making by the Cabinet**

11.6.1 Subject to Article 11.9, the Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### **11.7 Decision-Making by the Overview and Scrutiny Committee and the Performance and Audit Scrutiny Committee**

11.7.1 The Council's Scrutiny Committees will follow the Scrutiny Committees Procedure Rules set out in Part 4 of this Constitution when considering any matter.

## **11.8 Decision-Making by Other Committees and Sub-Committees Established by the Council**

11.8.1 Subject to Article 11.9, other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

## **11.9 Decision-Making by Council Bodies Acting as Tribunals**

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



## West Suffolk Council

### Article 12 - Finance, Contracts and Legal Matters

#### 12.1 Financial Management

12.1.1 The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

#### 12.2 Contracts

12.2.1 Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this Constitution.

#### 12.3 Legal proceedings

13.3.1 The Service Manager (Shared Legal) is authorised by the Scheme of Delegation to Officers set out in Part 3 of this Constitution to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where they consider that such action is necessary to protect the Council's interests.

#### 12.4 Authentication of documents

12.4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Chief Executive Officer or the Service Manager (Shared Legal) or in their absence by other persons authorised by the Service Manager (Shared Legal), unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

#### 12.5 Common Seal of the Council

12.5.1 The Common Seal of the Council will be kept in a safe place in the custody of the Director (HR, Governance and Regulatory). A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Council's Monitoring Officer should be sealed. Sealed documents will be signed by any one of the following Officers of the Council:

- The Chief Executive Officer
- The Monitoring Officer

- A Strategic Director
- A Director
- A Lawyer.

12.5.2 An entry of every sealing of documents will be made and consecutively numbered in a register and be initialled by the person who attested the seal.

## West Suffolk Council

### Article 13 - Review and Revision of the Constitution

#### 13.1 Duty to Monitor and Evaluate the Constitution

- 13.1.1 The Monitoring Officer will monitor and evaluate the operation of this Constitution to ensure that its aims and principles are given full effect.

#### 13.2 Changes to the Constitution

##### Approval

- 13.2.1 Except as provided in 13.2.3 below, changes to this Constitution will be approved by the Council after consideration of the proposal by the Monitoring Officer.
- 13.2.2 A vote at Council to change this Constitution should be passed by a simple majority of those present and voting.
- 13.2.3 The Monitoring Officer, in consultation with the Head of Paid Service and relevant Portfolio Holder, has delegated authority to make minor amendments to the Constitution arising from changes to legislation, changes to staffing structures or job descriptions or changes in terminology. The Monitoring Officer also has authority to amend the Constitution to implement decisions of the Leader in relation to the delegation of executive functions to the Cabinet.
- 13.2.4 If the proposal involves a change from the existing Leader and Cabinet form of executive to another form of governance, the Council must ensure it is compliant with any legislative requirements and ensure adequate local consultation is undertaken.

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## West Suffolk Council

### Article 14 - Suspension, Interpretation, Maintenance and publication of the Constitution

#### 14.1 Suspension of the Constitution

- 14.1.1 **Limit to suspension** - The Articles of this Constitution may not be suspended. Any rules of procedure, except those required by law, may be suspended to the extent permitted within those rules and the law.
- 14.1.2 **Procedure to suspend** - A motion to suspend any rules will not be moved without notice unless at least one half of the total number of Councillors entitled to be present is present. The extent and duration of suspension will be proportionate to the results to be achieved, taking into account the purposes of this Constitution set out in Article 1.

#### 14.2 Interpretation of the Constitution

- 14.2.1 The ruling of the Chair (or in their absence the Vice Chair) on the interpretation of this Constitution in relation to any proceedings of the Council, shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

#### 14.3 Maintaining the Constitution

- 14.3.1 The Monitoring Officer will ensure that there are periodic operational reviews of this Constitution.
- 14.3.2 The Monitoring Officer will also ensure that an up-to-date version of this Constitution is maintained and that it is widely available for consultation by Members, staff and the public, as set out in Article 14.4 below.

#### 14.4 Publication of the Constitution

- 14.4.1 The Monitoring Officer will make available an electronic copy of this Constitution to each Councillor upon delivery of that individual's Declaration of Acceptance of Office on the Councillor first being elected to the Council.
- 14.4.2 The Monitoring Officer will ensure that the Constitution is published on the Council's website in a form that can be downloaded and that copies are available for inspection at Council Offices

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## **West Suffolk Council**

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

The following parts of this Constitution comprise the Executive arrangements.

1. Article 6 (The Cabinet) and the Cabinet Procedure Rules in Part 4 of this Constitution;
2. Article 7 (Overview and Scrutiny) and the Overview and Scrutiny Procedure Rules in Part 4 of this Constitution;
3. Article 9 (Joint Arrangements) - The Council currently operates joint arrangements with the County Council, neighbouring district councils and town/parish councils in the District;
4. Article 11 (Decision-Making) and the Access to Information Procedure Rules in Part 4 of this Constitution; and
5. Part 3 (Responsibility for Functions) which confirms the scheme of delegation and who, within the Council, can make executive decisions
6. Part 4 (Cabinet Procedure Rules) which confirms how executive meetings and decision making will operate

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## West Suffolk Council

### Functions and Responsibilities

The various parts of this Section of the Constitution set out the responsibility for functions. These are divided between the Council and/or its Committees, and the Cabinet (the Executive). In both cases they are subject to the onward delegation to employees set out in the Scheme of Delegation to Officers.

#### Section 1 - Responsibility for Local Choice Functions

The table below sets out the Council's decisions on who will be responsible for functions where there is a choice whether these are functions of Council or Cabinet.\* These are also subject to the onward delegation to employees set out in the Scheme of Delegation to Officers.

<b>Local Choice Function</b>	<b>Who is Responsible?</b>
<b>1.</b> Any function under a local Act	Cabinet
<b>2.</b> The determination of an appeal against any decision made by or on behalf of the Authority	Council
<b>3.</b> Any function relating to contaminated land.	Council
<b>4.</b> The discharge of any function relating to the control of pollution or the management of air quality.	Council
<b>5.</b> The service of an abatement notice in respect of a statutory nuisance.	Council
<b>6.</b> The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area.	Council
<b>7.</b> The inspection of the Authority's area to detect any statutory nuisance.	Council
<b>8.</b> The investigation of any complaint as to the existence of a statutory nuisance.	Council

<b>Local Choice Function</b>	<b>Who is Responsible?</b>
<b>9.</b> The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Council
<b>10.</b> The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Council
<b>11.</b> The making of agreements for the execution of highways works	Council
<b>12. The appointment of any individual:</b>	
(a) to any office other than an office in which they are employed by the Authority;	Council, except where the matter is the appointment to a company owned, or part-owned by West Suffolk Council, in which case the matter is an Executive function; or the Council has determined that the matter should be properly exercised by the Executive
(b) to any body other than –	
(i) the Authority; (ii) a joint committee of two or more authorities; or	
(c) to any Committee or Sub-Committee of such a body, and the revocation of any such appointment	

*\*In accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended.*

## West Suffolk Council

### Section 2 - Responsibility for Council (Non-Executive) Functions

- 1.1 The following parts set out how the Council has chosen to delegate responsibility for its Local Choice and non-executive functions.
- 1.2 The Scheme of Delegation operates on the principle that Officers are generally delegated to exercise functions of the Council that fall within their area of responsibility, unless the matter should properly be determined by Councillors in line with the Constitution.
- 1.3 For clarity, unless the Constitution (inclusive of this Section) states that a matter should be determined by Committee or Council, any matters that fall within the scope of the below shall be determined by Officers:
  - Any matters listed within Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000
  - Any matters listed within Schedule 2 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 that the Council has determined should not be executive functions
  - Any other matters which by law, should not be executive functions
- 1.3 An Officer's area of responsibility shall be defined through reference to their job description, any delegations that have been made specifically to them by the Council, or any Committee or Sub-Committee of the Council, the Chief Executive, or any sub-delegations made to them as recorded in a register maintained by the Monitoring Officer.
- 1.4 The relevant Director must authorise any sub-delegations within their relevant service areas, which must also be notified to the Monitoring Officer.
- 1.5 Every Committee appointed by the Council to discharge functions may appoint Sub-Committees for the purposes to be stated by the Committee. The Members of a Sub-Committee will be Members or substitute Members of the appointing Committee.
- 1.6 Any Committee or Sub-Committee may, within its delegated authority, set up Working Parties or Panels for the detailed study of any matter. Working Parties or Panels are not subject to the Rules of Debate or Access to Information Procedure Rules.
- 1.7 Any Working Party/Panel given delegated (decision making) authority will become a Sub-Committee and be subject to both the Rules of Debate and Access to Information Procedure Rules.

## **A - Development Control**

### **1 – Remit**

The Development Control Committee is authorised to undertake (or sub-delegate) all of the Council's functions relating to town and country planning, development control, the protection of hedgerows and trees, as specified in Parts A and I of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended by subsequent Regulations), that are not otherwise delegated to Officers.

The Committee is also authorised to exercise the Council's Local Choice Functions in relation to the obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land and the obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 (as specified in the Responsibility for Local Choice Functions) that are not otherwise delegated to Officers.

In summary, the area of responsibility of this Committee includes all matters relating to the administration of Town and Country Planning legislation, Listed Building and Conservation Area legislation, Hazardous Substances legislation and the Building Acts and associated Regulations within the purview of the Authority as it relates to the following functions:-

- (1) The Committee determines all matters falling within their remit which are:
  - (a) Judged by the Director (Growth and Planning) (after consultation with the Chair and/or the Vice Chair(s) of the Development Control Committee) to be of such district-wide significance or to be so contentious that they should in the public interest be referred to the Committee for consideration and determination.
  - (b) Applications proposing major development (as defined in Article 1(2) of the Town and Country Planning (General Development Procedure) Order 1995) (as amended) where a Member for the Ward in which the application site is located has requested (in writing) consideration by the Committee.
  - (c) Applications proposing other than major development (as defined above) referred by the Director (Growth and Planning) following consultation with the Delegation Panel.
  - (d) Departures from the provisions of the Development Plan where planning permission is recommended for approval.
  - (e) Applications made by or on behalf of the Council.
- (2) A Members' Delegation Panel Scheme (known as "the Panel") has been set up to advise on the level of decision with applications for

Planning Permissions. The Panel is intended to deal with the items which would normally be dealt with under delegated authority but where there is a contrary view from the Town/Parish Council or where the Ward Member has requested that the application be referred to the Panel for a planning reason. Where a contrary view has been expressed the Delegation Panel advise whether the decision remains as delegated or whether the application should be referred to Committee for a decision. This will apply in cases including (but not limited to) applications from householders, advertisement matters, applications for change of use, applications for minor residential development (as defined in Article 1(2) of the Town and Country Planning (General Development Procedure) Order 1995) (as amended), applications for a variation of conditions, applications relating to hazardous substances and TPO applications/confirmations (where objections have been received).

- (3) The Panel to also advise on the level of decision of an application, in the first instance, for planning permissions on behalf of, or closely related to, an elected Member or Officer of the Council, where there are no contrary views from statutory consultees, Parish/Town Councils and third parties. The Panel will also advise where a Member of the Development Control Committee has requested, in writing, that the application should be considered by the Committee, but the local Ward Member(s) has/have not.
- (4) In cases referred to above, decisions will only be taken following consultation with the Panel which will comprise the Chair and/or Vice Chair(s) of the Development Control Committee. The Panel will have regard to the views of the local Ward Member(s) who has/have made representations in writing or at the meeting.

The Panel scheme will operate as follows:

- (a) Meeting of the Panel will normally take place fortnightly. Additional meetings of the Panel can be arranged if deemed necessary. For clarity, meetings can take place virtually and attendance shall include remote attendance, where the Member can see and/or hear proceedings.
- (b) A list of applications to be considered at the Panel will be circulated to all Members, and a written briefing report on each case prepared and circulated to the Chair and Vice Chair(s) of the Development Control Committee and any local Member(s) or adjacent Ward Member with the approval of the Ward Member(s) who has/have made representations in writing, at least two clear working days in advance of the Panel meeting, with provision for emergency items at the discretion of the Chair or Vice Chair(s).
- (c) The local Member(s) may attend the Panel or submit representations in writing in order to make sure the Panel is clearly aware of their views and reasoning. Any other Member may attend the Panel as an observer, at the Chair's discretion.

- (d) Following discussion and views expressed at the Delegation Panel meeting, the Director (Growth and Planning) will make the decision on whether the application should be determined by Officers, or the matter will be referred to the Development Control Committee. If there is no clear consensus of views expressed, the application will be reported to the Development Control Committee.
- (e) The relevant Parish/Town Council will be informed of the decision by the Council's Case Officer and will be sent written reasons within 10 working days of the Panel meeting, with copies to the Chair, Vice Chair(s) of the Development Control Committee and local Member(s).
- (f) For the avoidance of doubt, Officers will determine all matters within the remit of the Development Control Committee that:
  - i) Do not meet the criteria for referral directly to the Development Control Committee.
  - ii) Do not meet the criteria for referral for consideration by the Delegation Panel.
  - iii) Are reviewed by the Delegation Panel but are not referred to the Development Control Committee

## **2 – Membership and meeting arrangements**

- 2.1 The Committee will comprise up to 16 Members of the Authority.
- 2.2 The Committee will usually be appointed annually by the Council and will be politically balanced. In the event that the Council's Annual Meeting is cancelled, deferred or delayed, the Committee shall continue to serve until they are re-appointed by the Council.
- 2.3 The Committee will appoint its own Chair and up to two Vice-Chair(s).
- 2.4 The Committee will meet in accordance with a schedule of ordinary meetings approved by the Council, although meetings may be cancelled due to lack of business. Special and Extraordinary meetings of the Committee may also be called.

## **3 – Delegation of Functions**

- 3.1 The majority of the Committee's functions will be determined by officers, as set out in Section 4 of this part of the Constitution. These delegations are subject to:-
  - (a) Any such determination is not a departure from Development Plans and adopted District and County Planning Policies.
  - (b) Statutory consultations being carried out in accordance with the Statement of Community Involvement; and
  - (c) The safeguards and consultative procedures listed in Part 1 above.

- 3.2 Those matters which will normally fall to be determined by the Committee are as defined in Part 1, paragraphs (1) (a) to (c) above. In exercising any of its functions, the Committee may refer any item to Council for a decision.

#### **4 – Procedure at meetings**

- 4.1 Procedure at meetings shall be in accordance with the Committee Procedure Rules, except as provided in 4.2 below.
- 4.2 The Committee shall have authority to determine from time to time its own arrangements for public speaking on applications, and which matters are to be included within those arrangements. An adjacent Ward Member may act on behalf of and with the approval of the Ward Member(s).

## **B - Licensing**

### **1 – Remit**

The Licensing and Regulatory Committee (in this Section referred to as “the Committee”) is authorised to undertake or sub-delegate all matters of a regulatory nature, other than those covered by the Development Control Committee, or which are required by statute to be licensed, and the hearing of certain appeals, other than those matters that are delegated to officers to determine.

The Committee will only hear those appeals which the Authority is required to determine. It will not take the place of any other appeals process or complaints procedure, nor will it provide a general appeal mechanism for any decision of the Authority.

### **2 – Membership and meeting arrangements**

2.1 The Committee will comprise up to 15 Members. It will usually be appointed annually by the full Council and will be politically balanced in so far as is reasonably practicable. In the event that the Council’s Annual Meeting is cancelled, deferred or delayed, the Committee shall continue to serve until they are re-appointed by the Council.

2.2 Members appointed to the Committee must:

- (a) Be capable of carrying out the Committee’s programme of work and anticipated number of Sub-Committee hearings for the forthcoming year, as set out in Section 3 below.
- (b) Make themselves available to participate in the work of the Licensing Authority.
- (c) Undertake the mandatory training requirements, as set out in Part 5 of the Constitution – West Suffolk Licensing Code of Practice (Knowledge and Training).

Members failing to undertake the mandatory training requirements will be unable to sit on the Committee.

- (d) Be expected to act in accordance with the West Suffolk Licensing Code of Practice (as set out in Section 5 of the Council’s Constitution).

2.3 The Committee will appoint its own Chair and Vice-Chair.

2.3.1 The Chair will:

- (a) Be elected and it will be their responsibility to make themselves aware of the full understanding of their procedural responsibilities, in accordance with the principles



set out in paragraph 5.2 of Article 5 (Chairing the Council) of the Constitution.

- (b) Be responsible for Member-to-Member engagement, in particular between the Committee and the respective Portfolio Holder.
- (c) Lead on other Member-related duties including the appointment of Members of the Committee and non-voting co-optees to Task and Finish Groups.

2.4 The Committee will ordinarily be expected to meet up to four times each year and whilst it would be expected for these meetings to take place quarterly, meetings may be re-arranged in accordance with the Committee's work programme.

The substantive responsibilities of the Committee will be to:

- (a) Set the fares charged by taxis licensed throughout the District.
- (b) Confirm how the Committee will carry out the core legal functions of the Licensing Authority.
- (c) Act as a consultee on policies relevant to the remit of the Committee, where appropriate
- (d) To consider and make Public Path Orders where, following the usual informal consultation, there are objections that cannot be resolved.

2.5 With the agreement of the Chair (or the Vice-Chair in the absence of the Chair) and relevant Portfolio Holder, Extraordinary meetings of the Committee may also be called as substantive business dictates. Sub-Committee meetings are also scheduled as and when required.

### **3 – Delegation of functions**

3.1 As set out in this responsibility for Council functions, it is assumed that any non-development control regulatory functions would be delegated to Officers unless they must be referred to the Committee.

3.2 In normal circumstances, matters will only be brought before the Committee or a Sub-Committee where it is deemed appropriate or it is an appeal against an Officer's decision. In such cases, the Director (HR, Governance and Regulatory) shall consult with the Chair and Vice-Chair, or a trained member of the Licensing and Regulatory Committee where the Chair or Vice-chair are unavailable, on whether they consider it appropriate to refer the matter to the Committee or Sub-Committee, or whether the matter should be delegated for Officers to determine. The Chair and Vice-Chair (or trained member of the Committee if required) should be

informed of any representations received in respect of the matter, including any local Member views received.

- 3.3 If the Director (HR, Governance and Regulatory), following consultation with the Chair and Vice-Chair (or a trained member of the Licensing and Regulatory Committee, where the Chair or Vice-Chair are unavailable), consider that beyond reasonable doubt the outcome of the Sub-Committee would be the application or appeal would be refused, then the matter should normally be determined by Officers.
- 3.4 A Sub-Committee will comprise any three Members drawn from the full membership of the Committee and appointed for each occasion when it is needed. In addition there will be one 'reserve' Member appointed for each Sub-Committee meeting in case one of the other Members is unavailable or has to withdraw on the day. Where the Sub-Committee is considering the licensing of a specific premises, the Ward Member(s) in which the premises lies should not sit on the Sub-Committee.
- 3.5 Democratic Services will seek Members to sit on Sub-Committees with a view to achieving political balance as far as is practicable across the municipal year. All Members of the Committee should be given equal opportunities to sit on Sub-Committees following successful completion of the relevant training
- 3.6 Applications made in respect of the Licensing Act 2003 will be brought before the Committee or a Sub-Committee in accordance with any regulations published under the Act, the guidance issued under s.182 of the Act and summarised in Table B1 below.
- 3.7 Applications made in respect of the Gambling Act 2005 will be brought before the Committee or a Sub-Committee in accordance with the Scheme of Delegation summarised in Table B2 below.
- 3.8 Applications made in respect of Sex Establishments will be brought before the Committee or a Sub-Committee in accordance with the Schedule of Delegated Authority summarised in Table B3 attached.

#### **4 – Procedure at meetings**

- 4.1 Meetings of the Committee and Sub-Committees will be conducted in accordance with the Committee Procedure Rules, except when the Committee or Sub-Committees sits as a hearing, in which case the Hearing Procedure Rules will apply.

**TABLE: B1****Licensing Act 2003: Delegation of Functions**

The Licensing Authority has adopted the following level of delegation of functions in accordance with the general guidance issued by the Government.

<b>Matter to be dealt with</b>	<b>Licensing and Regulatory Sub Committee</b>	<b>Officers</b>
Application for personal licence	If a Suffolk Constabulary objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made and not withdrawn	If no relevant representation made
Application for provisional statement	If a relevant representation made and not withdrawn	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made and not withdrawn	If no relevant representation made
Application to vary designated premises supervisor	If a Suffolk Constabulary objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a Suffolk Constabulary objection	All other cases
Applications for Interim Authorities	If a Suffolk Constabulary objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant frivolous vexatious		All cases
Decision to object when local authority is a consultee and not the lead authority	All cases	
Determination of a Suffolk Constabulary representation to a temporary event notice	All cases	
Determination of application for minor variation		All cases
Determination of application for licence, or variation of licence, in respect of community premises: supervision of alcohol sales	If a Suffolk Constabulary objection is made and not withdrawn	All other cases
Determination of relevance of representation		All cases
Exercise of Responsible Authority Functions of applications and notices submitted to the licensing authority under the Licensing Act 2003 (as amended by the Police and Social Responsibility Act 2011) in accordance with the regulations.		All cases

<b>Matter to be dealt with</b>	<b>Licensing and Regulatory Sub Committee</b>	<b>Officers</b>
Consideration of applications for off-sales review including interim measures and appeals against interim measures	All cases	

**TABLE: B2****Gambling Act 2005: Delegation of Functions**

<b>GAMBLING ACT 2005</b>			
<b>Summary of permitted licensing authority delegations</b>			
<b>(x indicates the lowest level to which decisions can be delegated)</b>			
<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Final approval of three year Statement of Licensing Principles	X (as a consultee)		
Policy not to permit casinos	X (as a consultee)		
Fee Setting (when appropriate)			x
Application for premises licences		Where representations have been made (and not withdrawn)	Where no representations have been received/representations have been withdrawn
Application for a variation to a licence		Where representations have been made (and not withdrawn)	Where no representations have been received/representations have been withdrawn
Application for transfer of a licence		Where representations have been made (and not withdrawn)	Where no representations have been received/representations have been withdrawn
Application for a provisional statement		Where representations have been made (and not withdrawn)	Where no representations have been received/representations have been withdrawn
Review of a premises licence		x	
Application for club gaming/ club machine permits		Where objections have been made (and not withdrawn) Or The Authority propose to attach a condition to the licence under Section 169(1)(b), a condition that would otherwise be attached to the licence under Section 168	Where no objections have been made/objections have been withdrawn Or With the consent of the applicant and any interested party or responsible authority Or If the Local Authority think the representations are vexatious, frivolous or will not influence the Authority's determination of the application

Cancellation of club gaming/ club machine permits		x	
Applications for other permits			x
Cancellation of licensed premises gaming machine permits			x
Consideration of temporary use notice			x
Decision to give a counter notice to a temporary use notice		x	

**TABLE: B3****Sex Establishments: Schedule of Delegated Authority**

<b>Matter to be dealt with</b>	<b>Sub Committee* (see note below)</b>	<b>Officers</b>
Grant (First or New) of an Application for the grant of any type of Sex Establishment Licence.	If a relevant objection received or Officers have concerns in respect of the application or characteristics of the locality.	All other cases
Decision on whether an objection is frivolous or vexatious.		In respect of all Applications
Decision on whether an objection is irrelevant.		All cases
Application for Waiver of Licence in respect of any type of Sex Establishment Licence.	All cases	
Refusal of an Application for the grant of any type of Sex Establishment Licence on the grounds of the Applicant being under the age of 18.		All cases
Refusal of an Application for the grant of any type of Sex Establishment Licence on the grounds of the Applicant being a person who is for the time being disqualified from holding a licence following revocation of such a licence.		All cases
Refusal of an Application for the grant of any type of Sex Establishment Licence on the grounds of the Applicant being a person, other than a body corporate, who is not resident in an EEA state or was not so resident throughout the period of 6 months immediately preceding the date when the application was made.		All cases
Refusal of an Application for the grant of any type of Sex Establishment Licence on the grounds of the Applicant being a body corporate which is not incorporated in an EEA state.		All cases
Refusal of an Application for the grant of any type of Sex Establishment Licence on the grounds of the Applicant being a person who had, within a period of 12		All cases

<b>Matter to be dealt with</b>	<b>Sub Committee* (see note below)</b>	<b>Officers</b>
months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.		
Refusal of an Application for the grant, renewal or transfer of any type of Sex Establishment Licence on the grounds that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason.	All cases	
Refusal of an Application for the grant, renewal or transfer of any type of Sex Establishment Licence on the grounds that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewed or transfer of such a licence if he made the application himself.	All cases	
Refusal of an Application for the grant or renewal of any type of Sex Establishment Licence on the grounds that the number of sex establishments or of sex establishments of a particular kind, in the relevant locality at the time the application is made (determined) is equal to or exceeds the number which the authority consider is appropriate for that locality.	All cases	
Refusal of an Application for the grant or renewal of any type of Sex Establishment Licence on the grounds that the grant or renewal of the licence would be inappropriate, having regard – (i) to the character of the relevant locality; or (ii) to the use to which any premises in the vicinity are put; or (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.	All cases	



<b>Matter to be dealt with</b>	<b>Sub Committee* (see note below)</b>	<b>Officers</b>
Refusal of an Application for the Variation of the terms, conditions or restrictions on or subject to which the licence is held for any type of Sex Establishment Licence.	All cases	
Revocation of a licence.	All cases	

*\*Although matters will normally be referred to a Sub-Committee for determination, they may be referred to the full Committee at the discretion of the Business Regulation and Licensing Manager, after consultation with the Chair and Vice-Chair*

### Procedure for Hearings of Licensing Matters

Delegated authority is given to the Licensing and Regulatory Committee to amend its procedures from time to time to comply with legislative requirements and in the interests of fairness and efficiency.

### Licensing Act 2003 Hearing Regulations - Hearing Procedure

#### **1. Introduction**

A Hearing Panel must act as a quasi judicial body. This means that it must follow the rules of natural justice by ensuring that:

- Applicants and licensees know in advance and in reasonable detail anything that is claimed or alleged against them.
- All parties are given a proper opportunity to present their views.
- Only relevant matters are considered.
- The decision taken is reasonable.

A Hearing Panel will also have regard to:

- The Human Rights Act 1998
- Guidance issued under Section 182 of the Licensing Act 2003 (hereinafter called the "2003 Act")
- The Council's Statement of Licensing Policy under the 2003 Act

*Notes:*

*Where a Hearing Panel departs from the Guidance and/or the Council's Statement of Licensing Policy, it will give its reasons for doing so.*

#### **2. Definitions**

In this document the following definitions apply:

- "Applicant/licensee" means the person who has made an application for a licence under the 2003 Act or a person who has served notice of a temporary event in accordance with the 2003 Act or a person who is the holder of a licence under the 2003 Act;
- "Representation" means a submission by a responsible authority or interested party under the 2003 Act, whether made in response to a consultation by application for review or served in the form of a notice;
- "Party to a hearing" means a person to whom notice of hearing has been given in accordance with column 4 of Schedule 1 attached or who is otherwise entitled to speak at a hearing;
- "Member of the Licensing Authority" means:  
a Councillor sitting as a member of the Licensing Act 2003 Sub-Committee hereinafter called a Hearing Panel, or an Officer who has been appointed by the Council as a proper Officer of the Licensing Authority, to carry out the following functions:

- to provide any advice that councillors require to fulfil their functions whether or not it is asked for on:
  - questions of law
  - questions of mixed law and fact
  - matters of practice and procedure
  - the range of options available to the Hearing Panel
  - any relevant decisions of the Courts
  - relevant national guidance or local policy
  - other issues relevant to the matter before the Hearing Panel
  - the appropriate decision making structure to be applied in any case
- to assist where appropriate as to the formulation of reasons and recording decisions
- to question any party to a hearing
- to assist parties to a hearing to clarify evidence and issues
- "Discussion" means to examine by argument and debate.
- "Cross Examination" means the examination of a party or witness with a view to querying or questioning his/her evidence.

**3. Hearings will be held in accordance with the Schedule 1 below which sets out:**

Column 1	Provision under a which a hearing may be held
Column 2	The period of time within which the hearing must take place
Column 3	The period of notice that must be given about the hearing
Column 4	The persons to whom notice of the hearing will be given
Column 5	The documents that will accompany the notice of the hearing (if any)
Column 6	The period of time within which a party to a hearing must confirm whether or not they intend to appear

**4. Notice of Hearing**

A notice of hearing shall be accompanied by the following:

- The rights of a party to a hearing (see paragraph 5 below)
- The consequences of non-attendance
- The procedure to be followed at the hearing (see Schedule 2 below)
- Any particular points on which the Licensing Authority will want clarification at the hearing
- Any other documents in accordance with Column 5 of Schedule 1 below

**5. Rights of a Party to a Hearing**

A party to a hearing:

- may be assisted or represented, whether or not that person is legally qualified;

- is entitled to give further information in support of their application or representation where the Licensing Authority has given notice that clarification on certain points is required;
- may question any other party (including the applicant) if given permission to do so by the Licensing Authority;
- may address the Licensing Authority;
- must be aware that, in the event of non-attendance, the hearing may proceed in their absence. However, if a party has indicated that they intend to attend the hearing but fail to do so, the Licensing Authority may, where it is in the public interest, adjourn the hearing to a specified date (but see paragraph 6 below). Alternatively, the hearing may be held in that party's absence (in which case the Licensing Authority will consider the application, representation or notice made by the absent party);
- will be advised of the procedure to be followed (see Schedule 2 below);

*Notes:*

- *A party to a hearing must confine their submission to the information given in their application or representation unless they are asked by the Licensing Authority to clarify information given in their application or representation.*
- *Where a party who has confirmed that they intend to appear at a hearing is unable to do so or is unavoidably delayed they must contact the Licensing Authority to explain the reason for their absence. Parties to a hearing are advised to arrive not less than 15 minutes before the hearing commences.*
- *Each party to a hearing will be allowed an equal maximum period of time to exercise the above rights.*
- *The maximum period to be allowed will be determined at the commencement of each hearing.*
- *Where a number of interested parties attend a hearing, all of whom wish to make the same or similar points, they will be invited to appoint a spokesperson. Other interested parties will then be asked to add anything that they consider their spokesperson has omitted. It is not necessary for each interested party to repeat the same points and the Chairman of the hearing will be firm on this point.*

**6. Action required by party to a hearing following receipt of notice of hearing**

A party to a hearing is required to confirm to the Licensing Authority within the period set out in Column 6 of Schedule 1 below:

- Whether or not they intend to attend or be represented;
- Whether they consider the hearing unnecessary;
- To request in writing permission for any other person to attend (as a witness). Any such request must include the person's name and brief description of the point(s) that person may be able make in order to assist the Licensing Authority at the hearing. Any such request will be considered at the beginning of the hearing but such permission shall not be unreasonably withheld.

*Notes:*

- *Any such request will be considered at the commencement of the hearing.*
- *The submission of the witness must relate to the points contained in the representation made by the party on whose behalf they are appearing. Any other comment(s) must and will be disregarded.*

## **7. Dispensing with a hearing**

The Licensing Authority may dispense with a hearing if all the parties to it (other than the Licensing Authority itself) have given notice in writing that it is unnecessary. If all parties give such notice, the Licensing Authority, if it agrees, must forthwith give notice to the parties that the hearing has been dispensed with and determine the application within 10 working days based on the representations that have been made in writing.

## **8. Withdrawal of representation**

A party to a hearing may withdraw any representation by giving notice no later than 24 hours prior to the commencement of the hearing or orally at the hearing itself.

*Note: If all representations are withdrawn the application will be approved as submitted.*

## **9. Adjournments and Extensions of time**

The Licensing Authority may:

- extend any time limit relating to a hearing set out in Schedule 1 if it considers this necessary in the public interest, provided that any reviews can still be determined within the prescribed time limits and provided that during the transition period the application is not consequently deemed grant or deemed refused.
- adjourn or hold a hearing on additional specified dates where it considers this to be necessary
- adjourn to enable a site meeting to be held.

Notice will be given to all the parties to the hearing stating the period of the extension or the date of the re-scheduled hearing and the reasons for it.

*Note: During the transition period any adjournment or extension of time will not re-schedule the hearing later than the following:-*

<i>Type of Application</i>	<i>Latest time for hearing</i>
<ul style="list-style-type: none"> <li>• <i>Conversion of premises licence or club premises certificate</i></li> <li>• <i>Variation of new premises licence or new club premises certificate</i></li> </ul>	<i>Not later than 2 months beginning on the day the application was received by the Licensing Authority</i>
<i>Application for a personal licence by the holder of a Justices' Licence</i>	<i>Not later than 3 months beginning on the day the application was received by the Licensing Authority</i>

## **10. Hearings in Public**

Hearings will take place in public, unless the Licensing Authority excludes the public from all or parts of a hearing on the grounds that the public interest in doing so outweighs the public interest in the hearing (or that part) taking place in public.

When the public are excluded from a hearing (or part), any party to the hearing, their representative and any person called by them as a witness may also be excluded.

## **11. Representations and Supporting Documentation**

Members of the Licensing Authority may ask any question of any party or other person attending the hearing.

In considering any representation made by a party, the Licensing Authority may take into account supporting documentary or other information produced by that party either before the hearing or, with the consent of all the other parties, at the hearing itself.

*Note:*

- *If material is to be introduced at the hearing, the party must prepare at least ten copies for distribution to the members of the Licensing Authority and the other parties to the hearing if its submission is permitted.*

The Licensing Authority will disregard any information given at a hearing that is not relevant to:

- The application, representation or notice made by the party concerned (or, in the case of a witness the application, representation or notice of the party on behalf of whom they are appearing), and
- the licensing objectives

It should further be noted that some hearings may only consider the prevention of crime and disorder objective

## **12. Procedure at a Hearing**

The procedure to be followed will be explained at the commencement of the hearing. In general terms the procedure will be that set out in Schedule 2 below.

The hearing will take the form of a discussion led by the Licensing Authority. Cross-examination will only be permitted if the Licensing Authority agrees that this is required to enable it to fully and properly consider the case being dealt with.

The Licensing Authority may require any person attending the hearing who is behaving in a disruptive manner to leave and may:

- Refuse permission for that person to return, (in which case the person excluded may submit in writing and before the end of the hearing any information that they would have given orally had they not been required to leave), or
- Permit the person to return on specified conditions

## **13. Determination of Applications**

In the case of a hearing relating to any of the following:

- Application for conversion of existing premises licence or club premises certificate
- Application to vary a premises licence or club premises certificate
- Application for personal licence by holder of a Justices' Licence
- Application to vary a licence to specify an individual as a premises supervisor
- Counter notice following police objection to a temporary event notice
- Review of premises licences following closure order

The Licensing Authority may make its determination at the conclusion of the hearing. All parties will be advised of the decision and the reasons for it, together with their right of appeal.

*Note: A determination may authorise an Officer of the Licensing Authority to approve an application subject to conditions to be applied in accordance with the decision made at the hearing*

In the case of any other hearing, the Licensing Authority will make its determination within 5 working days.

## **14. Recording Proceedings**

A record of proceedings will be taken in a permanent and intelligible form and kept for 6 years from the date of the determination or the disposal of any subsequent appeal, whichever is the later.

## **15. Irregularities**

Any irregularity resulting from failure to comply with the Licensing Act 2003 (Hearings) Regulations 2005 (or any subsequent Regulations) will not of itself render the proceedings void but, if the Licensing Authority considers that any person has been prejudiced as a result of any irregularity, it will take appropriate steps to rectify this or these before reaching its determination.

Clerical mistakes in any document recording a determination, or errors in documentation arising from an accidental slip or omission, may be corrected by the Licensing Authority.

## **16. Place of Meetings**

Any reference in these procedures to a meeting, place of meeting or attendance at a meeting in respect of hearings held under the Licensing Act 2003, may include reference to electronic, digital or virtual meetings, where those present are able to see and/or hear and contribute to proceedings by virtual means.

The Council shall provide reasonable assistance to any party attending the meeting virtually. Where a party cannot attend a meeting by virtue of it being held virtually, the Council shall allow written representations to be submitted in place of an oral statement.

Where a meeting takes place virtually, any representations in writing, whether before or at the meeting, must be circulated to the Democratic Services Officer who shall provide electronic copies to the members of the hearing.



**Schedule 1**

	<b>Provision under which hearing may be held</b>  <b>Column 1</b> <b>NB: References are to sections of the Licensing Act 2003</b>	<b>Period of time within which hearing must be take place</b>  <b>Column 2</b>	<b>Period of Notice that to be given about the Hearing</b> <b>Column 3</b>	<b>Persons to whom notice of hearing will be given</b>  <b>Column 4</b>	<b>Documents to accompany notice of hearing (if any)</b>  <b>Column 5</b>	<b>The period of time within which a party to hearing must confirm whether or not they intend to appear</b> <b>Column 6</b>
1	Section 18(3)(a) (Determination of application for premises licence)	20 working days commencing day after period of consultation ends	10 working days	The person who has made the application	The relevant representations that have been made	5 working days before day on which hearing is held
				Persons who have made relevant representations		
Page 79	Section 31(3)(a) (Determination of application for a provisional statement – premises to be constructed, extended or altered)	20 working days commencing day after period of consultation ends	10 working days	The person who has made the application	The relevant representations that have been made	5 working days before day on which hearing is held
				Persons who have made relevant representations		
3	Section 35(3)(a) (Determination of application to vary premises licence)	20 working days commencing day after period of consultation ends	10 working days	Holder of premises licence who made application	The relevant representations that have been made	5 working days before day on which hearing is held
				Persons who have made relevant representations		
4	Section 39(3)(a) (Determination of application to vary a premises licence to specify individual as the premises supervisor)	20 working days commencing day after period within which police may object	10 working days	Holder of premises licence who made application	The notice given by the Police	5 working days before day on which hearing is held
				Police		
				The DPS	The notice given by the Police	
5	Section 44(5)(a)	5 working days commencing day		The person who has made the application	The notice given by the Police	5 working days before day on

	<b>Provision under which hearing may be held</b>  <b>Column 1</b> <b>NB: References are to sections of the Licensing Act 2003</b>	<b>Period of time within which hearing must be take place</b>  <b>Column 2</b>	<b>Period of Notice that to be given about the Hearing</b> <b>Column 3</b>	<b>Persons to whom notice of hearing will be given</b>  <b>Column 4</b>	<b>Documents to accompany notice of hearing (if any)</b>  <b>Column 5</b>	<b>The period of time within which a party to hearing must confirm whether or not they intend to appear</b> <b>Column 6</b>
	(Determination of application for transfer of premises licence)	after period within which police may object	10 working days	Police The holder of the premises licences	 The notice given by the Police	which hearing is held
6	Section 48(3)(a) (Cancellation of interim authority notice on death etc of licence holder following police objections)	5 working days commencing day after period within which police may object	2 working days	The person who has given notice	The notice given by the Police	1 working day before day on which hearing is held
				Police		
7	Section 52(2) (Determination of application for review of premises licence)	20 working days commencing day after period of consultation ends	10 working days	The holder of the premises licence	The relevant representations that have been made	5 working days before day on which hearing is held
				Person who have made relevant representations		
				Person who asked for the review		
8	Section 72(3)(a) (Determination of application for club premises certificate)	20 working days commencing day after period of consultation ends	10 working days	The club that has made the application	The relevant representations that have been made	5 working days before day on which hearing is held
				Persons who have made relevant representations		
9	Section 85(3)(a) (Determination of application to vary club premises certificate)	20 working days commencing day after period of consultation ends	10 working days	The club that has made the application	The relevant representations that have been made	5 working days before day on which hearing is held
				Persons who have made relevant representations		

	<b>Provision under which hearing may be held</b>  <b>Column 1</b> <b>NB: References are to sections of the Licensing Act 2003</b>	<b>Period of time within which hearing must be take place</b>  <b>Column 2</b>	<b>Period of Notice that to be given about the Hearing</b> <b>Column 3</b>	<b>Persons to whom notice of hearing will be given</b>  <b>Column 4</b>	<b>Documents to accompany notice of hearing (if any)</b>  <b>Column 5</b>	<b>The period of time within which a party to hearing must confirm whether or not they intend to appear</b> <b>Column 6</b>
10	Section 88(2) (Determination of application for review of club premises certificate)	20 working days commencing day after period of consultation ends	10 working days	The Club which holds the club premises certificate Persons who have made relevant representations Person who asked for the review	The relevant representations that have been made	5 working days before day on which hearing is held
Page 81	Section 105(2)(a) (Counter notice following police objection to Temporary Event Notice)	7 days commencing day after period within which police may object)	2 working days	The premises user		1 working day before day on which hearing is held
				Police		
12	Section 120(7)(a) (Determination of application for grant of a personal licence)	20 working days commencing day after period within which police may object	10 working days	The person who has made the application	The notice given by the Police	5 working days before day on which hearing is held
				Police		
13	Section 121(6)(a) (Determination of application for renewal of a personal licence)	20 working days commencing day after period within which police may object	10 working days	The person who has made the application	The notice given by the Police	5 working days before day on which hearing is held
				Police		
14	Section 124(4)(a) (Convictions coming to light after grant or renewal of personal licence)	20 working days commencing day after period within which police may object	10 working days	The holder of the personal licence	The notice given by the Police	5 working days before day on which hearing is held
				Police		

	<b>Provision under which hearing may be held</b>  <b>Column 1</b> <b>NB: References are to sections of the Licensing Act 2003</b>	<b>Period of time within which hearing must be take place</b>  <b>Column 2</b>	<b>Period of Notice that to be given about the Hearing</b> <b>Column 3</b>	<b>Persons to whom notice of hearing will be given</b>  <b>Column 4</b>	<b>Documents to accompany notice of hearing (if any)</b>  <b>Column 5</b>	<b>The period of time within which a party to hearing must confirm whether or not they intend to appear</b> <b>Column 6</b>
15	Section 167(5)(a) (Review of premises licences following closure order)	10 working days commencing day after notice given	5 working days	The holder of the premises licence  Persons who have made relevant representations	The relevant representations that have been made	2 working days before day on which hearing is held
Page 82	Paragraph 4(3)(a) of Schedule 8 (Determination of application for conversion of existing licence)	10 working days commencing day after Police give notice	5 working days	The person who has made the application  Police		2 working days before day on which hearing is held
	17 Paragraph 16(3)(a) of Schedule 8 (Determination of application for conversion of existing club certificate)	10 working days commencing day after Police give notice	5 working days	The Club that made the application  Police		2 working days before day on which hearing is held
18	Paragraph 26(3)(a) of Schedule 8 (Determination of application by holder of a justices' licence for grant of a personal licence)	10 working days commencing day after Police give notice	5 working days	The person who has made the application  Police		2 working days before day on which hearing is held
19	Section 172G(1) (Application for Expedited off-sales review of premises licence)	Within 28 days of receipt of application	5 working days	The holder of the premises licence  Persons who have made relevant representations, including the responsible authority	The relevant representations that have been made  Details of interim steps taken	2 working days before day on which hearing is held

	<b>Provision under which hearing may be held</b>  <b>Column 1</b> <b>NB: References are to sections of the Licensing Act 2003</b>	<b>Period of time within which hearing must be take place</b>  <b>Column 2</b>	<b>Period of Notice that to be given about the Hearing</b> <b>Column 3</b>	<b>Persons to whom notice of hearing will be given</b>  <b>Column 4</b>	Documents to accompany notice of hearing (if any)  <b>Column 5</b>	<b>The period of time within which a party to hearing must confirm whether or not they intend to appear</b> <b>Column 6</b>
20	Section 172H(7) (Representations against interim steps taken by licensing authority in respect of off-sales review of premises licence)	48 hours of receipt of representations (excl. non-working days)	24 hours (excl. non-working days)	The holder of the premises licence	Relevant representations made by the premises holder and the responsible authority	1 hour prior to the hearing being held
				The responsible authority that submitted the application	Details of interim steps taken	

**LICENSING ACT 2003 – HEARING PROCEDURE**

**Pre-Hearing Matters**

1. Declaration of Interests
2. The Chair will introduce members of the Hearing Panel
3. The Chair will ask those present to introduce themselves in the following order:
  - Applicant/licensee and any person representing or assisting them (Confirmation also should be given that copies of the relevant representations to be considered at the Hearing have been received);
  - The Officer of the Licensing Authority, the Committee Administrator and the Legal Advisor to the Hearing Panel;
  - Responsible authorities that have made a relevant representation;
  - Interested parties who have made a relevant representation (Interested parties should confirm whether a spokesperson has been nominated and, if so identify them).
4. The Chair will ask all parties to the Hearing whether they wish to withdraw their application or representation.
5. The Chair will ask the Officer of the Licensing Authority to report:
  - Any requests from a party to the Hearing for permission for a witness to appear in support of their representation. Any such requests will be determined by the Hearing Panel.
  - Any documentary or other information that a party to the Hearing wishes to present. If there is any such material, the Chair will ask all the other parties to the Hearing whether they consent to it being presented. If they agree, the material will be distributed. If not, the said material may not be distributed unless there are exceptional circumstances which in the Chair's opinion render it necessary and appropriate for the said material to be presented to the Hearing Panel. In this regard the Chair's decision will be final.
6. The Chair will invite the applicant/licensee or his representative to estimate the time required to present their case and ask questions of other parties to the Hearing. The Chair will then ask the other parties to the Hearing whether they will require a longer period to present their representation and question the applicant. The Hearing Panel will determine the maximum period of time allowed for each party to put their case. This decision will be final.

## **THE HEARING**

Immediately the pre-Hearing matters have been dealt with the Hearing will commence.

1. The Chair will ask the Officer of the Licensing Authority to summarise the matter under consideration.
2. The members of the Hearing Panel, the applicant, and those making representations may ask questions of the Officer of the Licensing Authority.
3. Starting with the applicant or licensee, each party will exercise their rights within the identified maximum time, as follows:
  - Each party to present their case, including responding to any points of which the Licensing Authority has previously given notice, and call any approved witness or witnesses in support of their case.
  - If given permission by the Chair, and only through the Chair of the Hearing, each party may raise questions of any other party or witness/witnesses.
  - Where a party was unable to attend by virtue of it being held virtually, the Chair shall request the Democratic Services Officer to read any written submissions received in place of an oral statement.
4. The applicant/licensee or his representative will be asked to sum up their case.
5. All those present, other than the members of the Hearing Panel, their Legal Advisor and the Committee Administrator, will be asked to leave the meeting to allow Members to determine the application.
6. All parties will be recalled. The Legal Advisor to the Hearing Panel will advise those present of any advice that has been provided during the determination. The Chair will then:
  - either announce the decision, together with the reasons for it if it is a Hearing in relation to an application for which the Licensing Authority may make its determination at the conclusion of the Hearing;or
  - advise all the parties that the Licensing Authority will make its determination within five working days, in which case notification of the determination will be sent out in writing (including the rights of appeal) to all relevant parties not later than five working days after the Hearing date.
7. In the event of the Licensing Authority making its determination at the conclusion of the Hearing the Chair will outline the rights of

appeal. The decision and rights of appeal will also be confirmed in writing by the Officer of the Licensing Authority forthwith.

8. Nothing within paragraph 6. above will preclude a Licensing Authority from making its determination at the conclusion of any Hearing, should the Hearing Panel so decide. It is entirely within the discretion of the Members of the said Panel whose decision in this regard will be final.



## **C. Other Committees**

### **Overview and Scrutiny Committee**

#### **Performance and Audit Scrutiny Committee**

Details of the functions and procedures of these Committees are set out in Article 7 (Scrutiny Committees) and in the Scrutiny Committees Procedure Rules set out in Part 4 of this Constitution.

### **Joint Committees / Committees / Panels / Sub-Committees / Working Parties/Groups:**

#### **Joint Committee**

#### **C. 1 Anglia Revenues and Benefits Partnership Joint Committee**

- 1.1 The following of the Council's powers have been delegated to the Anglia Revenues and Benefits Partnership which is a Joint Committee pursuant to Section 101(5) of the Local Government Act 1972 and Section 20(1) of the Local Government Act 2000. The Joint Committee has the power to:
- 1.2 Implement and administer the statutory Council Tax Benefit and Housing Benefit scheme (including the investigation and prosecution of benefit fraud) and the Localised Council Tax Support Scheme,
- 1.3 Determine all applications for Relief from the National Non-Domestic Rate under the terms of the Local Government Finance Act 1988 in accordance with the approved criteria.
- 1.4 Determine all applications arising from the granting of Non-Domestic Rate Discretionary Relief, in respect of the village shop rate relief scheme, under the terms of the Local Government Finance Act 1988.
- 1.5 Determine all applications arising for the granting of non-Domestic Rate Discretionary Relief, in respect of the charity shop rate relief scheme, under the terms of the Local Government Finance Act 1988.
- 1.6 Undertake the relevant consultations with National Non-Domestic Ratepayers under Section 134 of the Local Government Finance Act 1988.
- 1.7 Deal with any applications for relief from National Non-Domestic Rate liability under Section 44 and 45 of the Local Government Finance Act 1988.
- 1.8 Administer all relevant matters in connection with the administration of the Council Tax under the appropriate legislation and any specific determinations made or policies set by the Council in connection with Council Tax administration.

- 1.9 Take all necessary steps in respect of the demand, collection and recovery of business rates.
- 1.10 The Joint Committee is given power to authorise such officers as it thinks fit and appropriate to act on its behalf in relation to:
  - Council Tax matters including billing, collection and recovery.
  - Council Tax appeals including appearing at the local valuation tribunal hearings.
  - National Non-Domestic Rates including billing, collection, recovery and representation at court and tribunals.
  - Benefit Fraud, including its investigation, instructions to prosecute, the imposition of sanctions including penalties and recovery of overpayments
  - The Localised Council Tax Support Scheme

## **Committees**

### **C.2 Officer Appeals Committee**

1. Membership and Meeting Arrangements
  - 1.1 Membership of the Committee will comprise six Members. In addition, two Substitute Members will be appointed.
  - 1.2 The Committee will be appointed annually by the Council and will be politically balanced. In the event that the Council's Annual Meeting is cancelled, deferred or delayed, the Committee shall continue to serve until they are re-appointed by the Council.
  - 1.3 Any Member of the Council may serve on the Committee provided that they are not also a Member of the Officer Appointments Committee.
  - 1.4 The Committee will appoint its own Chair and Vice Chair.
  - 1.5 The Committee will meet on an ad hoc basis as required.
2. Functions/Remit
  - 2.1 To consider appeals against dismissal and grievances by Chief Officers of the West Suffolk Council.

### **C.3 Officer Appointments Committee**

1. Membership and Meeting Arrangements
  - 1.1 Membership of the Committee shall comprise:
    - a) Six Members of the Authority.

- b) The Council's Independent Persons, if they agree to be part of the Committee, when the Committee is considering dismissal of the s151 Officer or Monitoring Officer.
- 1.2 In addition, two substitute Members of the authority will be appointed.
  - 1.3 The Committee will be appointed annually by the Council and will be politically balanced. If the Council's Annual Meeting is cancelled, deferred or delayed, the Committee shall continue to serve until they are re-appointed by the Council.
  - 1.4 Any Member of the Council may serve on the Committee provided that they are not also a Member of the Officer Appeals Committee.
  - 1.5 The Committee's membership must include at least one Member of the Cabinet.
  - 1.6 The Committee will appoint its own Chair and Vice Chair.
  - 1.7 The Committee will meet on an ad hoc basis as required.
  - 1.8 Voting will be undertaken by a show of hands. All Members of the Committee, including the Independent Persons, shall have equal voting rights.
2. Functions/Remit
    - 2.1 To deal with the appointment, discipline and termination of employment of the Head of Paid Service and Strategic Directors of the West Suffolk Council in accordance with the Officer Employment Procedure Rules.
    - 2.2 Where the Committee is considering dismissal of the Head of Paid Service, they are obligated to consider the views and findings of the Independent Panel.

#### **C.4 Independent Panel**

1. Membership and Meeting Arrangements
  - 1.1 Membership shall consist of the Council's at least two Independent Persons appointed for the purpose of s.28(7) of the Localism Act 2011.
  - 1.2 If the Independent Persons appointed by West Suffolk Council are unable to participate, then any Independent Person appointed by any other Council for the purpose of s.28(7) of the Localism Act 2011 shall be invited to join the Panel so that it comprises of at least two Independent Persons.

1.3 The Panel should meet on an ad-hoc basis as required and may elect to undertake its meetings in a manner it considers appropriate for the discharging of its functions.

2. Function/Remit

2.1 The function of the Independent Panel shall be to consider dismissal proceedings against the Head of Paid Service. They shall be obligated to consider the findings of an investigator and reach a conclusion on the matters raised. Their conclusions shall be reported to the Officer Appointments Committee.

**C.5 West Suffolk Standards Committee**

1. Membership and Meeting Arrangements

Membership of the Committee will comprise six Members and will be politically balanced. In the event that the Council's Annual Meeting is cancelled, deferred or delayed, the Committee shall continue to serve until they are re-appointed by the Council.

2. Functions/Remit

The Committee will have the following roles and functions:-

- (a) Promoting and maintaining high standards of conduct by Councillors and co-opted Members.
- (b) Assisting Councillors and co-opted Members to observe the Members' Code of Conduct.
- (c) Advising the Council on the adoption and revision of the Members' Code of Conduct.
- (d) Monitoring the operation of the Members' Code of Conduct.
- (e) Advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct.
- (f) Granting dispensations to Councillors and co-opted Members from requirements relating to interests set out in Section 34 of the Localism Act 2011. Where there is insufficient time to call a meeting of the West Suffolk Standards Committee, the Monitoring Officer, in consultation with the Chair and Vice Chair of the West Suffolk Standards Committee, may grant dispensations to Councillors and Co-opted Members from the requirements relating to interests in accordance with Section 33 of the Localism Act 2011.
- (g) Considering a report from the Monitoring Officer in respect of an allegation of a breach of the Members' Code of Conduct.
- (h) Dealing with a report from the Monitoring Officer in respect of an allegation of a breach of the Members' Code of Conduct of a Town or Parish Council within the District of West Suffolk Council.

The Committee will not cover the conduct of Officers, for which separate provisions apply.

## **Sub-Committee**

### **C.6 Financial Resilience Sub-Committee**

#### **1. Remit**

- 1.1 The Financial Resilience Sub-Committee will undertake the enhanced monitoring and scrutiny of the Council's financial resilience, and will be responsible to the Performance and Audit Committee for:-
- (1) The Council's responses to changes in statutory and regulatory requirements and guidance related to treasury management, capital financing and financial resilience.
  - (2) Examining and recommending Annual Treasury Management and Investment Strategy.
  - (3) On-going revisions to treasury management strategies and policies.
  - (4) The mid-year treasury management review.
  - (5) Receiving reports on treasury management performance.
  - (6) The annual report on treasury management performance, including the effects of the decisions taken and the transactions executed in the past year, and on the circumstances of any non-compliance with the Council's treasury management policy statements.
  - (7) Examining ongoing compliance with any statutory and non-statutory guidance or measures relating to financial resilience.

#### **2. Membership and Meeting Arrangements**

- 2.1 The Sub-Committee will comprise three Members and one substitute Member of the Performance and Audit Scrutiny Committee, which desirably reflects the political balance of the Council, as far as practically possible.
- 2.2 There will be one non-voting invitee, which will normally be the Portfolio Holder with responsibility for finance.

- 2.3 The Sub-Committee will be appointed annually by the Performance and Audit Scrutiny Committee (or Council) and will appoint its own Chair.
- 2.4 The Sub-Committee will meet at least three times each year, although meetings may be cancelled by the Chair due to lack of business. Special meetings of the Sub-Committee may also be called as necessary.
- 2.5 In order to help streamline the comprehensive treasury management reporting requirements of the CIPFA Code, where possible meetings will be held to coincide with existing reporting requirements.

*(\*Note: This meeting is not governed by the normal Access to Information rules (The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012) in the Council. Therefore these meetings are not open to attendance by the public).*

## **Panels**

### **C.7 Staff Consultative Panel**

#### **1. Overview**

- 1.1 The Panel's membership will be drawn from Councillors and staff of the Council. The definition of 'staff' includes all groups of employees covered by the National Joint Council for Local Government Services.
- 1.2 The Panel will consider the Council's staffing arrangements and provide a regular forum to secure the largest measure of agreement between the Council as an employer and Trade Union employees regarding matters directly affecting employment by the Council
- 1.3 To provide a group of Members who can develop an enhanced level of understanding on staffing matters.
- 1.4 To make recommendations to the Cabinet about policies and actions required to develop and maintain effective employee/employer arrangements.

#### **2. Constitution**

- 2.1 The Panel shall comprise 12 Members, to be comprised of six Councillors, which desirably reflects the political balance of the Council, as far as practically possible, to be the 'Employers' Side' and six members of staff from the Council to be the 'Employees' Side', nominated by the Trade Unions recognised by the Authorities in accordance with the formula set out below:-

- (a) Employee representatives appointed by each of the Trade Unions recognised by the Authority should be on a proportional basis to the total number of employees within the individual union compared to the total Trade Union membership; and
  - (b) Each Trade Union recognised by the Authority shall have a minimum of one seat.
- 2.3 The Trade Unions recognised by the Council shall represent all Council employees. This will include raising issues on behalf of non-Trade Union members, should they be requested.
- 2.4 In the event of any failure to appoint/elect the number of representatives provided for by this Constitution, such failure to appoint/elect shall not invalidate the decisions of the Panel.
- 2.5 Two substitute Members shall be permitted on the 'Employers' Side' and two substitutes shall be permitted from the 'Employees' Side'.
- 2.6 It shall be the duty of a senior Human Resource Officer to attend and advise the Panel on behalf of the Head of Paid Service or their designated nominee.
- 2.7 The Panel shall elect a Chair and Vice-Chair from its Members. When the Chair is a Member of one Side of the Panel, the Vice-Chair shall be a Member of the other Side. The Chair of the Panel shall be rotated on an annual basis between the Employees' and Employers' Side. The Chair of the meeting shall not have a casting vote.
- 2.8 The Panel may invite attendance by any person whose particular knowledge or experience may assist the Panel in its considerations. Such attendance shall be in a consultative capacity and only for the period during which the relevant subject is under consideration. In addition, the Employee side may arrange for the attendance of a Trade Union official at any meeting of the Panel, subject to the prior agreement of the Chair and Vice Chair.

### **3. Terms of Reference**

- 3.1 To establish and maintain methods of negotiation and consultation, to consult on matters affecting the employment of all groups of employees of the Council, with a genuine commitment to seek consensus and enter into agreements, as appropriate.
- 3.2 These matters may include such subjects as:-
- (a) Application or implementation of National Agreements.
  - (b) Application or implementation of Local Agreements or local conditions of service.
  - (c) Productivity or performance arrangements.

- (d) Issues referred to the Panel by the Trade Unions as provided for by the formal 'Consultation Procedures' (Employment Restructuring & Redundancy).
  - (e) Working conditions.
  - (f) Welfare and health of employees, including acting as a focus for employee participation in the promotion of health and safety at work, the prevention of accidents and incidents and the avoidance of work related ill health.
  - (g) Personnel procedures including recruitment, sickness, discipline and handling of grievances and redundancies.
  - (h) Training and development of employees.
  - (i) Equality issues; and
  - (j) Any issue referred to the Panel by the Cabinet.
- 3.3 Issues affecting individuals (eg pay, discipline) are excluded from consideration unless they represent matters of principle which are of general application to employees.

#### **4. Authority of the Panel**

- 4.1 Decisions of the Panel shall be in accordance with the voting arrangements set out in paragraph 5.3 below and shall be subject to the approval of the Cabinet, as provided for by the Council's Scheme of Delegation.

#### **5. Arrangements and Procedures**

- 5.1 Meetings shall normally be held quarterly but, exceptionally, the Chair may decide, after consultation with a senior Human Resources Officer to convene an Extraordinary meeting at any time or to cancel a scheduled meeting due to lack of business to transact. Meetings to alternate between the Council Offices or as agreed by the Panel.
- 5.2 The quorum for the Panel shall be four, comprising at least two Employee representatives and two Members.
- 5.3 Voting shall be by a show of hands and simple majority. No motion shall be regarded as carried unless it has been approved by a majority of Employer representatives and a majority of Employee representatives present and voting.
- 5.4 The report from the Panel to the respective Cabinet shall be by way of presentation of the minutes or by way of a brief report in a format agreed by the Cabinet.
- 5.5 If the Panel is unable to agree and no local settlement can be achieved, the matter may be referred by either side to the Cabinet.

*(\*Note: This meeting is not governed by the normal Access to Information rules (The Local Authorities (Executive Arrangements) (Meetings and*



*Access to Information) (England) Regulations 2012) in the Council. Therefore these meetings are not open to attendance by the public).*

## **C.8 West Suffolk Independent Remuneration Panel**

### **1. The work of the panel**

- 1.1 The Independent Remuneration Panel is convened to make recommendations to West Suffolk Council on its Scheme of Members' Allowances and Expenses.
- 1.2 The Remuneration Panel will be required to make recommendations for the formation of a new scheme for West Suffolk, and subsequently review the scheme agreed by the Council to ensure that it remains consistent, fair and relevant.
- 1.3 The Panel's recommendations should encompass:
  - a. The rates of basic allowance that should be payable by the Council to all of its Members.
  - b. The rates of allowances payable to those Members who have special responsibilities within the Council.
  - c. The rates of travel, subsistence and other allowances payable to Councillors when discharging their duties, to include payments made in respect of child and dependent caring duties.
  - d. The rates that should be payable to any co-opted Members of the Council, if appointed.
  - e. The frequency with which the rates should be reviewed or adjusted.
  - f. Any other matters that the Panel deem to be appropriate.
- 1.4 In undertaking their work, the Panel should be mindful of:
  - a. Any relevant legislation, including in relation to the payment of allowances and taxation.
  - b. Any relevant guidance issued by government departments or advisory bodies.
  - c. The need to respect the expectations of the general public in the payment of allowances.
  - d. The need to ensure that appropriate analysis and research is undertaken to ensure their recommendations are robust and evidence-based.
  - e. The need to ensure that the level of allowances is affordable to the Council.
  - f. The expectations placed on councillors, and the workloads and commitments generated as a result.
  - g. The need to ensure that councillors have the opportunity to put forward their views on levels of remuneration.

### **2. Membership of the Panel**

- 2.1 The panel shall serve a term of office for up to four years which shall be subject to an annual review. After four years a formal

recruitment process shall be undertaken, with further appointments to be made for a term of no longer than four years. Panel members may seek re-appointment to the Panel.

- 2.2 The panel shall be made up of a minimum of three members appointed by a selection process to be agreed by the Council. The Council may also appoint advisors to the panel, who will not be voting members.
- 2.3 The members of the panel and advisors shall receive an allowance of £100 per meeting attended, plus travelling expenses of up to 45p per mile. Members of the panel and advisors may elect to waive their allowances and shall not be treated as employees, being responsible for their own tax, National Insurance and pension arrangements.
- 2.4 The Council shall have the right to remove members of the panel and advisors where they no longer meet the required criteria as established by the Council; commit a breach of confidentiality; persistently fail to attend meetings, or an act or behaviour which may otherwise bring the panel or the Council into disrepute.

### **3. Operation of the Panel**

- 3.1 The members of the panel shall elect their own Chair from amongst their members. The Chair shall be responsible for managing the business of the meeting, ensuring that meetings are conducted in an effective manner, and reach clear conclusions.
- 3.2 The panel should seek to draw consensus on their recommendations, but where they are unable to do so, minority opinions may be reflected in their subsequent recommendations and report.
- 3.3 The panel shall be supported by the Democratic Services Team of West Suffolk Council. The panel is encouraged to seek advice, seek the views of members of the Council, and undertake and commission research to support its work. The Council will support the panel by accommodating all reasonable requests for information and resources.

### **4. Advisor**

- 4.1 An advisor may be appointed, whose role will be to provide the panel with their views on matters under discussion and assist the panel in understanding the context of matters under discussion – effectively acting as a conduit between the Council officers, Council members and members of the panel. They are not a voting member of the panel and can be called on at the discretion of the panel. They will be entitled to attend panel meetings and have access to all papers and records of panel meetings.

## **5. Report and findings**

- 5.1 The Independent Remuneration Panel is required to produce recommendations for the Council, which will be articulated in reports, prepared by Council officers and agreed by the panel. These shall be presented by the Chair of the panel to the Council.

## **6. Access to meetings**

- 6.1 Panel meetings will not normally be open to the public although minutes and records of the panel will be open to public inspection.

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## West Suffolk Council

### Section 3 - Responsibility for Executive functions

#### 3.1 Cabinet Decision Making

3.1.1 Unless the matter is one of special urgency, only the Cabinet can make the following Executive decisions:

- a) Decisions that refer a policy, strategy, plan or other form of decision to the Council to determine.
- b) Decisions that are contrary to any policies, strategies, plans or other form of decision that Council has previously made.
- c) Decisions that are contrary to any policies, strategies plans or other form of decision that Cabinet has previously agreed, unless the Leader, Portfolio Holder and Chair of the Overview and Scrutiny Committee agree it may be delegated to the Portfolio Holder or Officers to determine.
- d) Decisions to adopt a policy, strategy or plan which is required as a result of legislation or statutory guidance but does not require adoption by the Council.
- e) Award a grant, contract or licence to an individual or corporate body in which a Councillor has declared a pecuniary interest.
- f) The Portfolio Holder or Leader has determined the matter should be determined by Cabinet.

3.1.2 a), b) and c) below must also be determined by Cabinet where they:

- Have not been included in the Council's budget; or
  - They are not specifically required to bring into effect any previously agreed policy or plan; or
  - Are not fully funded by an external source and therefore have no net budgetary impact.
- a) The acquisition or disposal of land, property or other assets which are of more than £500k in value.
  - b) The establishment of a new company, limited liability partnership or joint venture.
  - c) Permanent additions to the staffing establishment for which there is no other budgetary provision.

3.1.3 Any decision of Cabinet (unless the matter is a referral to Council) may be subject to the call-in procedure as outlined in the Overview and Scrutiny Committee Procedure Rules.

#### 3.2 Portfolio Holder or Cabinet decision making

3.2.1 The following matters cannot be determined by Officers and must either be determined by Cabinet, or by Portfolio Holders. The decision making route shall be determined following consultation between the relevant Officer, Portfolio Holder and/or Leader:

- a) Matters that, as above, must only be considered by Cabinet.
- b) The Portfolio Holder or Leader has determined they should make the decision.
- c) Where consultation with the public or local Ward Member(s) has highlighted that the matter has the potential to cause local controversy or reputational damage to the Council.
- d) Where a Member of the Officer Leadership Team or a statutory Officer has declared a pecuniary interest in a matter.
- e) The acquisition or disposal of land, property or other assets which are of more than £100k in value.
- f) The write off of balances, or write-on of credit balances that are individually worth more than £5k.

3.2.2 The Cabinet or Portfolio Holders, may also make decisions that do not meet the criteria in 3.1 or 3.2.1 above that would ordinarily be delegated to Officers to make.

### **3.3 Officer decision making**

3.3.1 Except in circumstances described in 3.1 and 3.2 above, Officers may make any other executive decisions in respect of the services, programmes, projects and plans for which they are responsible for. They may also make any decisions that are necessary in order to bring into effect decisions made by Cabinet or Portfolio Holders.

3.3.2 The Chief Executive may delegate levels of responsibility and decision making to any Strategic Director, Director or other Officer. A Strategic Director or Director who is delegated authority may then further sub-delegate decision making to any other Officer. Anyone delegated decision making responsibility should be familiarised with the limits of their delegation and the terms of this constitution.

3.3.3 The Monitoring Officer shall maintain a record of all Officers delegated to make decisions.

3.3.4 Applicable to all individuals in making decisions:

- a) Any individual who is delegated decision making responsibility may elect not to exercise their delegation.
- b) Any individual who is delegated decision making responsibility should carefully consider who should be consulted on the decision. This should include consideration to the Portfolio Holder, local Ward Member, Chair of the Overview and Scrutiny Committee and/or the Performance and Audit Scrutiny Committee in addition to any required public consultation.
- c) Where there is any doubt as to whether the matter constitutes a Key Decision, the presumption should be that it is.
- d) Where there is any doubt as to whether the matter should be determined by Cabinet or the Portfolio Holder, the presumption should be that the Cabinet or Portfolio Holder makes the decision.
- e) No individual should make a decision where they, or close relatives/friends are the beneficiary of that decision.

- f) Anyone making a decision must take appropriate levels of care and diligence in doing so. They should ensure that the decision is appropriately documented and there is a clear rationale to support it. They must take into account any advice provided to them, the outcomes of any consultation, and any legal requirements/statutory guidance.
- g) Anyone making a decision must follow any other requirements placed on them by this Constitution, including requirements with respect to Key Decisions and the requirements of the Access to Information Procedure Rules.

### **3.4 Urgent Decisions**

- 3.4.1 Where, in the opinion of the Chief Executive, by reason of limitation of time or urgency, a decision is required on any executive matter that is not otherwise delegated to Officers to make, after such consultation as they consider necessary, (or as is required by the Council's Budget and Policy Framework Procedure Rules in Part 4 of this Constitution), they shall have power to make the decision provided that any such decision shall be reported to the next meeting of Cabinet.
- 3.4.2 Such decisions should be treated under the special urgency provisions in the Access to Information Procedure Rules

### **3.5 Cabinet Portfolio Holders**

- 3.5.1 The Cabinet Portfolio Holders may only make decisions with respect to services that fall within their area of responsibility. The Leader shall determine the number and scope of Cabinet Portfolios and allocate responsibility for the Portfolios amongst the Members of Cabinet. The Monitoring Officer shall maintain a list of Portfolio responsibilities as nominated by the Leader, which shall be published alongside this Constitution.
- 3.5.2 The Leader (or in their absence, the Deputy Leader) may make decisions in respect to any services. All Cabinet Portfolio Holders may only make decisions within the limits of responsibility provided within 3.1 to 3.4 above and comply with any requirements of this Constitution in doing so.

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## West Suffolk Council

### Section 4 - Budget Setting and Medium-Term Planning, Budget Monitoring and Control and Resource Allocation

#### 1. Budget Setting and Medium-Term Planning

##### 1.1 Overarching Principles

1.1.1 The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with priorities and statutory obligations. The budget is the financial expression of the authority's plans and policies.

1.1.2 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans, statutory services and priorities of the Council. Budgets (spending plans) are needed so that the authority can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for an authority to budget for a deficit.

1.1.3 Medium-term financial planning involves a planning cycle in which managers develop their plans. As each year passes, another future year is added to the medium-term plan. This ensures that the authority is always preparing for events in advance. The Medium Term Financial Strategy (MTFS) reflects this forward planning financially.

##### 1.2 Key controls

1.2.1 The key controls for budget setting and medium-term planning are:-

- (a) Budget managers are consulted and involved in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set out in the Constitution for their budgets and the level of service to be delivered; and
- (b) A monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

##### 1.3 Responsibilities

###### 1.3.1 Section 151 Officer

- (a) Prepare and submit reports on budget prospects as part of the annual financial planning cycle, including resource constraints set by the Government and other external factors. Reports should take account of medium-term prospects, where appropriate. Prepare reports at intervals during the year in specific circumstances, such

as prior to approval of additional expenditure and at regular intervals for the Performance and Audit Scrutiny Committee.

- (b) Prepare and submit the annual budget to Council, on the basis of information provided by the Leadership Team and budget holders.
- (c) Advise on the medium-term implications of spending decisions.
- (d) Encourage the best use of resources and value for money by working with the Chief Officers and their staff to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- (e) To advise the Council in accordance with their responsibilities under Section 151 of the Local Government Act 1972.

### 1.3.2 Directors

- (a) Prepare budgets on the basis of service priorities and statutory obligations, within the overall context of the Cabinet's agreed priorities.
- (b) Prepare budgets that are consistent with any relevant limits, as part of the authority's annual budget cycle and within guidelines issued by Cabinet (for example relating to the setting of council tax).
- (c) Integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- (d) When drawing up draft budget requirements, have regard to:-
  - (i) Spending patterns and pressures revealed through the budget monitoring and budget setting processes;
  - (ii) Legal requirements.
  - (iii) Policy requirements as defined by the Council in the approved policy framework; and
  - (iv) Initiatives already under way.

## 2. **Budget Monitoring and Control**

### 2.1 **Overarching Principles**

2.1.1 Budget management ensures that once the budget has been approved by Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the authority to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers to account for defined elements of the budget.

2.1.2 By continuously identifying and explaining variances against budgetary targets, the authority can identify changes in trends and resource requirements at the earliest opportunity. The authority itself operates within an annual financial limit, approved when setting the overall budget. To ensure that the authority in total does not overspend, each service is required to manage its own expenditure within the limited budget allocated to it.

2.1.3 For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required by the Director's Scheme of Delegation.

## 2.2 **Key controls**

2.2.1 The key controls for managing and controlling the revenue budget are that:-

- (a) Budget managers should be responsible only for income and expenditure that they can influence.
- (b) There is a nominated budget manager for each cost centre heading.
- (c) Budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities.
- (d) Budget managers follow an approved certification process for all expenditure.
- (e) Income and expenditure are properly recorded and accounted for; and
- (f) Performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.

## 2.3 **Responsibilities**

### 2.3.1 **Section 151 Officer**

- (a) Establish an appropriate framework of budgetary management and control which ensures that:-
  - (i) Budget management is exercised within annual budget limits unless otherwise agreed by an appropriately authorised body or Officer.
  - (ii) Each Director has available timely information on income and expenditure for each budget, which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities.

- (iii) Expenditure is committed only against an approved budget head.
  - (iv) All Officers responsible for committing expenditure comply with relevant guidance, and the financial regulations.
  - (v) Each cost centre has a single, named manager, determined by the relevant Director. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making process that commits expenditure; and
  - (vi) Significant variances from approved budgets are investigated and reported by budget managers on a regular basis.
- (b) To administer the authority's scheme of virement.
  - (c) To prepare and submit regular reports to the Cabinet and the Performance and Audit Scrutiny Committee on the Authority's projected income and expenditure compared with the budget on a regular basis.
  - (d) Where a Director is unable to balance expenditure and resources within existing approved budgets under their control, to submit reports to the Performance and Audit Scrutiny Committee, in consultation with the Section 151 Officer.

### 2.3.2 Directors

- (a) Maintain budgetary control within their responsibility, in adherence to the principles in 2. above, and to ensure that all income and expenditure are promptly and properly recorded and accounted for.
- (b) Ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Director (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- (c) Ensure that spending remains within the Service's overall financial limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- (d) Ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.
- (e) Ensure prior approval by the Cabinet and Council (as appropriate) for new proposals that create financial commitments in future years.
- (f) To ensure compliance with the scheme of virement.

- (g) Agree with the Section 151 Officer where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Director level of service activity.

### **3. Resource Allocation**

#### **3.1 Overarching Principles**

3.1.1 A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is therefore imperative that needs/desires are carefully prioritised and that resources are fairly allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

#### **3.2 Key controls**

3.2.1 The key controls for resource allocation are:-

- (a) Resources are acquired in accordance with the law and using an approved authorisation process.
- (b) Resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for.
- (c) Resources are securely held for use when required; and
- (d) Resources are used with the minimum level of waste, inefficiency or loss for other reasons.

#### **3.3 Responsibilities**

##### **3.3.1 Section 151 Officer**

- (a) Advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.
- (b) Assist in the allocation of resources to budget managers.

##### **3.3.2 All Directors**

- (a) Work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.
- (b) Ensure that delegated budgets are appropriately managed in line with the West Suffolk Financial Procedure Rules and other policy requirements.

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## West Suffolk Council

### Section 5 - Scheme of Delegation to Officers

#### General

1. This section of the Scheme for the responsibility of functions establishes how Officers shall exercise the delegations made to them through the Responsibility for Council Functions and Scheme of Delegation for Executive Functions, and any other delegations provided for in this Scheme of Delegation for Officers.
2. In general, the delegation for Council and Executive functions works so that it is assumed that unless otherwise stated in this Constitution, Officers have the authority to make decisions on the delivery of functions, responsibilities and services of the Council that fall within their scope of responsibility. As this places a broad functional responsibility, the delegations in this Constitution should be taken to assume powers, and duties, within all present and future legislation, and all powers incidental to that legislation.
3. It is deemed that it falls within the scope of an Officer's responsibility where:
  - a) They have been specifically delegated by Council, Cabinet, a Committee or Sub-Committee to make a decision.
  - b) They are authorised as a result of a specific statutory requirement, or they are a statutory postholder.
  - c) It is a stated responsibility within the Officer's job description.
  - d) The Chief Executive, or any other person authorised by them (or sub-delegated) has authorised that they have responsibility as is recorded within a scheme of delegation, to be maintained by the Monitoring Officer.
4. This Scheme of Delegation shall operate in place of any previous delegation. This may be revised or superseded by new delegations that have been properly agreed, but have not been incorporated into the Constitution.
5. Any reference to any specific statutory requirements or local Orders shall incorporate reference to any enactment that replaces or amends the original reference.

#### Limitations

6. Officers shall not make decisions where:
  - a) The law requires it to be made by Council, a specific Committee or Sub-Committee.
  - b) This Constitution expressly reserves the matter to Council, a Committee, Sub-Committee or any other individual to make.

- c) Council, Committee or Cabinet, or any other decision maker with authority to do so, has determined that they should make the decision.
7. Officers may only exercise delegated powers in accordance with:-
- (a) The Council's Rules of Procedure contained in Part 4 of this Constitution, including the Financial Procedure Rules and Contract Procedure Rules.
  - (b) All plans, policies, schemes or strategies approved by or on behalf of the Council.
  - (c) Any statutory restrictions, guidance or statutory code of practice.
  - (d) The statutory and local requirements in respect of the taking and recording of Key Decisions.
  - (e) The revenue and capital funding for the relevant service as approved by the Council, subject to any variations which are permitted by virtue of the Council's Rules of Procedure; and
  - (f) The Council's Equal Opportunities and other policies, procedures, standards and the Local and National Conditions of Service.

### **Sub-Delegation**

8. All delegations, including any sub-delegations must be approved by the relevant Director for the service area concerned. In matters of urgency, sub-delegations may be approved by a Director or the Chief Executive. All delegations and sub-delegations shall be recorded in a register kept by the Monitoring Officer. Administrative functions ancillary to the exercise of delegated powers are deemed to be carried out in the name of the Officer exercising the function.

### **Further Provisions**

9. It shall always be open to an Officer not to exercise their delegated powers but to refer the matter to the Council, Cabinet, or relevant Committee (as appropriate) for decision.
10. In exercising delegated powers, Officers shall consult other Officers, Members or other parties as appropriate and have regard to any advice given or views provided. In particular, Officers must have regard to any report by the Head of Paid Service or the Monitoring Officer under Sections 4 and 5 of the Local Government and Housing Act 1989 or of the Chief Finance Officer under Section 114 of the Local Government and Housing Act 1988.
11. In exercising delegated powers, Officers shall consider whether the matter is controversial or significant and if so shall as appropriate consult or inform the relevant Portfolio Holder and/or Ward Member(s).



12. For the avoidance of doubt, where the Council, Cabinet or a Committee has settled a policy, plan or budget for a matter or class of matters, each Director or others that they shall designate, shall be empowered to deal with all such matters that are necessary to bring the policy, plan or budget into effect.
13. Where a policy, strategy or plan has been agreed by Council, Cabinet or a Committee, the Director or others that they shall designate, has the authority to make minor amendments to that policy, strategy or plan provided it does not change the nature of the decision reached, and they have undertaken such consultation as they consider appropriate

### **Delegation in the case of absence or inability to act**

13. If the following Officer(s) having delegated authority under the Scheme are absent or otherwise unable to exercise their delegation, and there is no other Officer to whom the authority has been sub-delegated, these provisions shall apply:
  - a) **Chief Executive** (Head of Paid Service) – the powers shall be exercised by a Strategic Director or, if either Strategic Director is unable to act, a Director
  - b) **Strategic Directors** – the powers shall be exercised by the Chief Executive or, if the Chief Executive is unable to act, a Director.
  - c) **Director (Resources and Property)** – the Service Manager (Finance and Performance) shall be responsible for the administration of the financial affairs of the Council pursuant to Section 151 of the Local Government Act 1972 and to act generally as the Council’s Chief Finance Officer under the terms of the Local Government Act 1988.
  - d) **Other Directors** – the powers shall be exercisable by a Strategic Director or the Chief Executive
  - e) **Service Managers** – the powers shall be exercisable by the relevant Director.
  - f) **Officers** – the powers shall be exercisable by a relevant Service Manager or Director.

### **Urgency Provisions**

14. Where, in the opinion of the Chief Executive, by reason of limitation of time or urgency, a decision is required on any matter, after such consultation as they consider necessary (or as is required by the Council’s Budget and Policy Framework Procedure Rules in Part 4 of this Constitution), they shall have power to make a decision provided that any such decision shall be reported to the next meeting of the Cabinet, appropriate Committee or Council unless there is a need for

confidentiality, in which case the reporting of the decision may be deferred until the need for confidentiality expires.

### **Specific Provisions**

15. **Elections** – the Chief Executive shall act as the Returning Officer and Electoral Registration Officer and shall ensure such action is taken to ensure the effective conduct of elections.
16. **Statutory Officers** – except as provided for in this constitution, the Chief Executive shall appoint any other statutory postholders.
17. **Proper Officer** – the Proper Officer for the administration of the Council shall be the Monitoring Officer. The Chief Executive, or other Officers that they designate, shall be the Proper Officer in respect of any other statutory functions.

## West Suffolk Council

### Section 6 - Member Role Descriptions

#### Ward Councillor

##### 1. Overview

- 1.1 First and foremost, you will represent your Ward, engaging with residents and groups on a wide range of different issues and taking on an important community leadership role. At the Council, you will contribute to the development of policies and strategies, including budget-setting. You may also be involved in taking decisions on planning or licensing applications.
- 1.2 As a Councillor, you will be expected to balance the needs and interests of the Council, your local area, your residents and voters, community groups, local businesses and your political party (if you belong to one).
- 1.3 In balancing the varying needs and interests of your residents, it is important that you are able to pro-actively engage with the work of the Council and input the views of your communities to relevant committees.

##### 2. Representing the local area

- 2.1 Represent effectively the interests of the Ward for which you were elected and deal with residents' enquiries and representations, fairly and without prejudice.
- 2.2 Champion the causes which best relate to the interests of the community and campaign for improvements in the quality of life of the community in terms of diversity, safety, well-being, economy and environment.
- 2.3 Use local knowledge in the development of Council policies, including listening to the needs of local people and taking their views into account when considering policy proposals and decision-making.
- 2.4 Ensure that local people are informed about:
  - Services in their area;
  - Decisions that affect them;
  - The reasons why decisions were taken by the Council;
  - Their rights as residents.
- 2.5 Represent the Authority to the community and the community to the Authority, through the various forums available.

- 2.6 When appropriate, respond to any Council consultation regarding matters within your Ward.
- 2.7 Know your Ward, and be aware of its particular qualities, advantages and challenges.
- 2.8 Develop effective working relationships with other local representatives, including other local Ward Members and the County Councillors, and representatives of local organisations, associations, interest groups and businesses
- 2.9 Encourage people in your Ward to participate in the democratic decision-making process by engaging with consultations etc.
- 2.10 Above all, you are a leader in your community. You act as an important link between the Council and your community, and you need to ensure you keep both your Council, and your community, informed of the work that each other is doing. That will mean regularly communicating with and reporting to Parish/Town Councils, Community Groups and Residents Associations, and reporting back from their meetings to appropriate forums.

### **3 Participating in the work of the Council**

- 3.1 Participate effectively at all meetings of Council and at Committees, Groups or other Forums to which you are appointed.
- 3.2 Contribute actively to the formation and scrutiny of the Council's priorities, budget, strategies and service delivery.
- 3.3 Develop and maintain a working knowledge of the Council's services, management arrangements, powers/duties and constraints and develop good working relationships with the Council's Officers.
- 3.4 Fulfil the statutory and locally determined requirements of an elected Member, including compliance with all relevant codes of conduct and protocols.
- 3.5 Represent the Council on outside bodies to which it appoints you, ensuring that relevant Officers and Members in the Council are made aware of the work of the outside body and any matters arising from their meetings.
- 3.6 Support the Chair in promoting the civic life of the Council.
- 3.7 Participate in the scrutiny of the services and policies of the Council and their effectiveness in meeting the strategic objectives of the Council and the needs of its residents.
- 3.8 Actively engage with the Member Development Programme, ensuring you have the skills you need to discharge your role

effectively and comply with any compulsory training requirements and recommended training. Ensure you have sufficient IT skills to enable you to make use of the relevant Council systems.

## **General Roles and Responsibilities of all Cabinet Members**

### **1. Accountability and Leadership**

- 1.1 Each Portfolio Holder will be accountable, and provide the political leadership, for their specific areas of responsibility.

### **2. Shared Responsibility as a Member of the Cabinet**

Responsibility for:-

- 2.1 The co-ordination, promotion and implementation of the Council's statutory plans and strategies and for the setting of the Council's objectives.
- 2.2 The oversight, development, monitoring and promotion of all services provided by the Council within the appropriate performance management framework.
- 2.3 Suitable and proper arrangements being made for the procurement, development, monitoring and promotion of all services relating to Cabinet functions which are provided under contract to the Council.
- 2.4 The promotion of the interests of the District and the whole of West Suffolk and of all the residents, businesses, other organisations and stakeholders within West Suffolk.
- 2.5 A community leadership role being taken by the Council across the public, voluntary and business sectors involving the development of good and effective working links and partnerships with all sectors.
- 2.6 The promotion and implementation of an effective equal opportunity policy in relation both to the employment of staff by the Council and the delivery of services by the Council and other agencies.
- 2.7 The promotion of services which contribute to the Council's Corporate Priorities.
- 2.8 Improving arrangements for communicating, consulting and maintaining a dialogue with residents and service users.

### **3. Specific Responsibilities**

Portfolio Holders will:-

- 3.1 Take the leading role in the development and implementation of the policies and covered by their Portfolio.

3.2 Be responsible for ensuring the effective management and delivery of the services or functions covered by their Portfolio within the following framework:-

- (a) The Council's overall strategic, corporate and policy objectives.
- (b) All statutory and other plans and strategies approved by the Council.
- (c) The statutory and local obligation to ensure best value.
- (d) The approved revenue and capital budgets.
- (e) The law and the Council's Constitution; and
- (f) The decisions made at meetings of the Cabinet.

#### **4. Specific roles of Cabinet Members**

Will include:-

- (a) Advising the Council, Cabinet or the Overview and Scrutiny Committee on matters concerning the implementation, monitoring and performance of services, groups of services, initiatives and projects.
- (b) Monitoring the performance of portfolio functions and activities to ensure corporate objectives and targets are achieved.
- (c) Advising and consulting with Officers on matters of significance for Council policy and its implementation.
- (d) Representing the Council's views to other agencies, community interests and local media.
- (e) Formally representing the Cabinet at meetings and Working Groups of the Overview and Scrutiny Committee and Performance and Audit Committee.
- (f) Liaising with other lead Members and Officers on strategic matters to ensure proper co-ordination, consistency and seamless delivery of services within Council policy.
- (g) Chairing, from time to time, meetings of members and officers and with Council partners.
- (h) Assisting in the development of work programmes, Decisions Plans and the setting of agendas.
- (i) Presenting and reporting issues to the Council, its Committees and Members' seminars.
- (j) Being consulted as part of any decision-making processes within their Portfolio (if held) which have been delegated to Officers; and
- (k) Being consulted on any matters of urgency which an Officer needs to act upon prior to a Member decision.

## **Deputy Leader of the Council**

### **1. General**

- 1.1 The Deputy Leader of the Council is responsible for supporting the Leader in providing political leadership for the Cabinet, the Council and the District.
- 1.2 In the absence of the Leader, the Deputy Leader is authorised to act on their behalf in accordance with the Council's Constitution, in particular:-
  - (a) Chairing Cabinet meetings, conduct the Cabinet's business and present reports to Council.
  - (b) Enabling the preparation of the Decisions Plan.
  - (c) Consulting with the Chief Executive on strategic or policy matters where an urgent decision or action must be taken; and
  - (d) Where necessary, consulting with Group Leaders of other political groups, the Chair of the Council and the Chair of the Overview and Scrutiny Committee and the Performance and Audit Scrutiny Committee to expedite the efficient and effective delivery of Council business; and
  - (e) To perform any other duties of the Leader, as set out in the Constitution and the Job Description for the Leader.

### **2. Specific duties include:**

- 2.1 On behalf of the Leader, to represent the Council on local, regional and national bodies.
- 2.2 On behalf of the Leader, to represent Council policy to the community, partners and the media.
- 2.3 With the Leader, to attend quarterly meetings with the Chair and Vice-Chair of the Overview and Scrutiny Committee and Performance and Audit Scrutiny Committee and to ensure the work of these Committees is properly co-ordinated.
- 2.4 To carry out the duties identified in the role descriptions for Cabinet Members and their own Cabinet portfolio (if they hold one).

## **Leader of the Council**

### **1. General**

The Leader of the Council will represent the Council and provide political leadership for the Cabinet, the Council and the District.

### **2. Specific Responsibilities will be to:-**

- (a) Appoint Members of the Cabinet and determine portfolios, chair meetings of the Cabinet, agree the schedule and venue

for Cabinet meetings and make arrangements for special meetings and co-ordinate and manage Cabinet Members.

- (b) Enable preparation of the Decisions Plan.
- (c) Have an overview of, and advise on, the policy making of the District, act as lead Member on overall strategy and monitor the overall performance of the Council in delivering the agreed policies of the Council.
- (d) Represent Council policy to the community and partners.
- (e) Work closely with the Chief Executive on strategic matters to ensure the co-ordination, consistency and delivery of Council services and consult with the Chief Executive on strategic or policy matters where an urgent decision or action must be taken.
- (f) Represent the Council on local, regional and national bodies.
- (g) Promote and develop partnership working with other agencies, ensuring that the Council's priorities are met.
- (h) Where necessary consult with Group Leaders of other political groups to expedite the efficient and effective delivery of Council business.
- (i) Liaise with the Chairs and Vice-Chairs of the Overview and Scrutiny Committee and the Performance and Audit Scrutiny Committee to ensure that work programmes are properly co-ordinated.



## **West Suffolk Council**

### **Council Procedure Rules**

#### **Introduction**

1. Ordinary meetings of the Council will usually take place five times a year on a Tuesday, commencing at 7.00 pm.
2. Meetings will usually take place at the Council's main Offices but may take place at other venues with the agreement of the Chair.
3. There are four types of Council Meetings:
  - The Annual meeting
  - Ordinary meetings
  - Extraordinary Meetings
  - Special meetings.

These are dealt with in more detail below.

4. Notice of all meetings of the Council will be given to the public by the Chief Executive in accordance with the Access to Information Rules, five clear working days before the date of the meeting, unless convened at shorter notice. Notice by summons will also be given by the Chief Executive to each Member of the Council in the manner prescribed in the Access to Information Procedure Rules. The summons shall contain the date, time and place of each meeting, specify the business to be transacted and be accompanied by such reports that may be available.
5. The Chief Executive is authorised to cancel a meeting where the agenda has already been issued if it is considered expedient. Before exercising this authority, the Chief Executive will consult with the Chair and the Leader of the Council. Any outstanding business will be held over to the next ordinary meeting or an extraordinary meeting on a date to be arranged.
6. The Council may make audio and/or visual recordings of meetings and broadcast or otherwise make them available to the public on its website or by other means.

#### **1. Annual meeting of the Council**

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

The Annual Meeting of the Council will be held:-

- 1.1.1 In a year of ordinary elections of Councillors to the Council, on such day within the twenty-one days immediately following the day of retirement of Councillors as the Council may fix.

1.1.2 Unless, by virtue of any enactment, the Council is allowed to cancel, defer or delay the Annual Meeting, in any other year, on such day in the month of March, April or May as the Council may fix.

1.1.3 At such hour as the Council may fix.

1.1.4 At the Annual Meeting, the Council will:-

- (a) Elect a Member to preside if the retiring Chair and Vice Chair are not present.
- (b) Elect the Chair for the ensuing year.
- (c) Receive any announcements from the Chair.
- (d) Receive any announcements from the Officer advising the Chair including apologies for absence.
- (e) Elect the Vice Chair.
- (f) Elect the Leader at the post-election Annual Meeting.
- (g) If practicable, be told by the Leader about the composition and constitution of the Cabinet for the coming year, and the names of Councillors chosen to be Members of the Cabinet.
- (h) Determine the Council's Committee structure in accordance with 1.2 below.
- (i) At the post-election Annual Meeting, determine the arrangements for outside bodies in accordance with 1.3 below.
- (j) Appoint the Chair and Vice-Chair of the Overview and Scrutiny Committee and the Performance and Audit Scrutiny Committee.
- (k) Update the Constitution if necessary in line with 1.2 below.
- (l) Consider any other business set out in the notice convening the meeting.

## 1.2 **Selection of councillors on committees**

At the Annual Meeting, the Council will:-

- (a) Decide which Committees to establish for the municipal year.
- (b) Decide the size and agree terms of reference for those Committees.
- (c) Decide the allocation of seats and substitutes to political groups in accordance with the political balance rules.
- (d) Receive, or arrange the delegation of, nominations of Councillors to serve on each Committee for which a new appointment or re-appointment is required.
- (e) Appoint to those Committees.

## 1.3 **Selection of councillors on outside bodies**

At the post-election Annual Meeting, the Council will:-

- (a) Receive, or arrange the delegation of, nominations of Councillors to serve on any outside body for which a new appointment or re-appointment is required.

- (b) Appoint to those outside bodies, except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

## **2. Ordinary meetings of the Council**

2.1 Ordinary meetings of the Council will usually take place at 7.00pm but may take place at any other time in accordance with the programme previously approved by the Council. The starting time of an ordinary meeting may be changed before the publication of the agenda by agreement of the Leader and the Chair.

2.2 Unless changed in accordance with paragraph 2.3 below, the order of business at every ordinary meeting of the Council, will be:-

- (a) To elect a person to preside if the Chair and Vice Chair are not present.
- (b) To deal with any business required by law to be dealt with first.
- (c) To confirm as a correct record and sign the minutes of the last meeting of the Council, except that minutes of a special meeting or an extraordinary meeting of the Council will be submitted for confirmation to the next ordinary meeting of the Council.
- (d) The Chair's announcements.
- (e) To receive any announcements from the Officer advising the Chair (including apologies for absence).
- (f) Declarations of interests.
- (g) To receive statements and answer questions from members of the public in accordance with Rule 6 below.
- (h) The Leader's report and questions in accordance with Rules 8.1 – 8.3 below.
- (i) To receive, and when appropriate debate, any petitions in accordance with the Petition Scheme attached as Appendix A to these Rules.
- (j) To deal with any business remaining from the last Council meeting in accordance with Rules 5.2 and 11.11(c) below.
- (k) To deal with the referrals report of recommendations from Cabinet and Committees.
- (l) To consider any other business specified in the summons to the meeting, including reports of the Overview and Scrutiny Committee and the Performance and Audit Scrutiny Committee.
- (m) To receive reports about, and receive questions and answers on, the business of joint arrangements and external organisations.
- (o) To consider any motions under Rule 9 below in the order in which they are received.
- (p) To answer any questions received under the terms of Rules 8.4 – 8.8 below.
- (q) To consider any business, which by reason of special circumstances, should in the opinion of the Chair be considered at the meeting as a matter of urgency. The special circumstances concerned shall be specified in the minutes of that meeting.

2.3 The order of business (except for items (a), (b) and (c) of paragraph 2.2 above of these Rules) may be changed:-

- (a) Before or at a meeting, as the Chair sees fit; or
- (b) By a resolution of the meeting passed on a motion under Rule 9 or Rule 10.1(c) below.

### **3. Special and extraordinary meetings of the Council**

#### **Calling Special or Extraordinary Meetings**

3.1 An Extraordinary meeting is one that is additional to the scheduled ordinary meetings and is called to deal with matters that cannot conveniently be dealt with at one of those meetings. A Special meeting is one called for a specific and unusual purpose, for example to confer an honorary title.

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

- (a) The Council by resolution.
- (b) The Chair.
- (c) The Monitoring Officer.
- (d) In accordance with paragraph 3 of Schedule 12 of the Local Government Act 1972 (as amended), any five Members of the Council if they have signed a requisition presented to the Chair and who has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

#### **Business**

3.2 Special or Extraordinary meetings will:-

- (a) Elect a person to preside if the Chair and Vice Chair are not present.
- (b) Receive any declarations of interest.
- (c) (At Extraordinary meetings only) receive statements and answer questions from members of the public in accordance with Rule 6 below and limited to the subject matter of the business to be transacted at the meeting; and
- (d) Deal with the business for which the Special or Extraordinary meeting was called. No other business will be dealt with.

### **4. Appointment of substitute members of committees and sub-committees**

4.1 As well as allocating seats on Committees, the Council may allocate seats in the same manner for substitute Members. In the case of Sub-Committees, the appointing Committees will determine the number of substitutes. Substitute Members must be from the same political group as the absent Member. Substitutes cannot be appointed for the Cabinet.

- 4.2 When the Council (or a Committee) wishes to appoint substitutes to a Committee (or Sub-Committee) it will adhere to the rules of political proportionality, subject to the total number of substitutes being no more than half of the total number of Members of the Committee (or Sub-Committee).
- 4.3 The powers and duties of substitutes are set out in the Committee Procedure Rules.
- 4.4 Any substitute must comply with any applicable training requirements for the Committee prior to sitting on the Committee meeting.

## **5. Quorum**

- 5.1 If at the start of a meeting or during a meeting of the Council there are not at least one third of the Council present, the Chair will adjourn the meeting.
- 5.2 Consideration of any business not dealt with, will be adjourned to a date and time fixed by the Chair or to the next ordinary meeting of the Council, if a meeting is not fixed to consider the adjourned business.

## **6. Public question time**

### **General**

- 6.1 At each ordinary meeting of the Council, members of the public who live or work in the District may put questions or make statements on items on the agenda to members of the Cabinet or any Committee. 30 minutes will be set aside for this. 30 minutes will also be set aside for questions at Extraordinary meetings of the Council, but must be limited to the business to be transacted at that meeting.
- 6.2 Where a meeting takes place at the Council Offices, a person who wishes to speak must register by no later than midday on the Friday before the meeting is scheduled to take place. This can be done online by sending the request together with their statement or question in full and confirmation of their address or workplace to [democratic.services@westsuffolk.gov.uk](mailto:democratic.services@westsuffolk.gov.uk) or telephoning 01284 757176 / 01638 719363. The Chair has discretion to allow members of the public to speak if they are not registered.

### **Order of questions**

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

### **Time limits**

- 6.4 Each person may ask one question or make one statement only. A total of five minutes will be allowed for the question to be put and answered, or

the statement made. The Chair may use their discretion to extend or reduce the time allowed if they feel it appropriate.

- 6.5 If a question is raised, one supplementary question will be allowed provided that it arises directly from the reply and the overall time limit of five minutes is not exceeded (subject to the Chair's discretion). The Member to whom the question is directed may refer it to another Member or may choose to give a written response. A written response will be provided if the Member to whom the question was directed is not present at the meeting and is not answered by another Member.
- 6.6 If a statement is made, then the Chair may allow the Leader of the Council, or other Member to whom they refer the matter, a right of reply.
- 6.7 If no questions/statements are received or all the questions/statements are dealt with in less than 30 minutes, the Council will move immediately to the next business.

### **Scope of Questions**

- 6.8 The Chair, in respect of any question/statement registered to be made at the meeting, may reject a question or stop a statement being made if it:-
- (a) Does not relate to an item on the agenda (note this does not include the Leader's Statement).
  - (b) Is defamatory, frivolous or offensive.
  - (c) Is substantially the same as a statement or question which has previously been put at a meeting of the Council (a copy will be provided).
  - (d) Requires the disclosure of confidential or exempt information; or
  - (e) Falls outside the scope of the Council's functions or services and, in such circumstances the person will be given assistance as to which is the relevant organisation to direct their question or statement.

### **Record of Questions and answers**

- 6.9 All questions/statements and answers under Public Question Time will be summarised in the minutes of the meeting. The summary for rejected questions and statements will include the reasons for rejection.

### **Written Answers**

- 6.10 As well as being sent to the person asking the question, written answers will be distributed to all Councillors and published on the Council's website.

## **7. Recording of Council meetings**

- 7.1 The Council usually makes its own recording of Council meetings. All recordings should be retained for the minimum period of one year.

7.2 Arrangements for the public to film/record and for the use of social media at meetings are set out in the Access to Information Rules.

## **8. Questions by Members**

8.1 At each ordinary meeting of the Council the Leader of the Council will submit a report (the Leader's Statement) summarising important developments and activities since the preceding meeting of the Council.

8.2 The Leader will introduce the statement and Members may ask the Leader questions:

- (a) On the Leader's statement.
- (b) On any Council matter.

All questions will be answered immediately by the Leader or by the relevant Cabinet Member if the Leader refers any question to them, unless sufficient information to give an answer is not available. In these circumstances the Member asking the question will receive a response in writing as soon as feasible after the Council meeting at which the question was asked. The response will be distributed to all Members and published on the Council's website.

8.3 A total of 30 minutes will be allowed for all questions and responses. There will be a limit of five minutes for each question to be asked and answered. The Member asking the original question may put a supplementary question arising from the reply so long as the five minute limit is not exceeded. The Chair may use their discretion to extend or reduce the time allowed if they feel it appropriate.

## **Questions on notice at Council**

8.4 Subject to paragraph 8.5 below, a Member may submit in writing to the Monitoring Officer a question on notice for:-

- (a) The Chair; or
- (b) The Leader or any Member of the Cabinet; or
- (c) The Chair of any Committee or Sub-Committee.

on any matter in relation to which the Council has powers or duties or which affects the administrative area of the Council, or part of it, or the inhabitants of that area.

8.5 A Member may ask only one question on notice, under paragraph 8.4 above, at each Council meeting and:-

- (a) Must submit it in writing to the Monitoring Officer no later than 12 noon seven working days before the meeting, not counting the day of the meeting.
- (b) If the question is urgent and the Member has the consent of the Member to whom the question is to be put, must submit it in

writing to the Monitoring Officer by 11am on the day of the meeting.

- 8.6 Every question on notice will be answered without discussion. The Member who is asked the question on notice may ask another Member to answer. An answer may take the form of:-
- (a) A direct verbal answer summarised in the minutes.
  - (b) Where the desired information is in a publication of the Council or other published work, a reference to that publication.
  - (c) Where the reply cannot conveniently be given verbally at the meeting, a written answer sent by the appropriate Officer and/or relevant Member to all Members within five working days of the Council meeting.
- 8.7 A Member asking a question on notice under paragraph 8.4 above may ask one supplementary question, without notice, of a Member to whom the first question was asked. The supplementary question must arise directly from the original question or the reply. The total time allowed for each question, including any supplementary question, to be put and answered will be ten minutes.
- 8.8 If the Member who gave notice of the question is not present at the meeting, any other Member may ask that question, but if that does not occur, the Chair shall proceed to the next item of business. The question shall be deemed to have been withdrawn and may not be asked unless notice is given again in accordance with paragraph 8.4 above.

## **9. Motions which need written notice**

- 9.1 A "motion on notice" is a request to Council for a decision to be made or action to be taken. It is a written document, that outlines the background to why the request is being made, what is being asked at Council and the potential implications for the Council of making that decision.
- 9.2 Motions must be about matters for which the Council has a responsibility, or which affects the administrative area of the council or part of it, or the inhabitants of that area. The Monitoring Officer shall, in consultation with the Chair, reject any motions that are deemed ultra vires, illegal, or improper by virtue of being defamatory or offensive.
- 9.3 Unless there are overriding exceptional circumstances, the motion must be submitted to the Monitoring Officer by no later than 12 noon, ten working days before the meeting, not counting the day of the meeting. The motion will be dated and available for public inspection upon request.
- 9.4 Overriding exceptional circumstances would be those cases where the Councillor proposing the motion could not have reasonably foreseen the need to notify their intent to submit the motion at least ten working days prior to Council. They may only be included on the Council agenda with the written permission of the Chair.



- 9.5 Each Member may put one motion on notice at each Council meeting. A maximum of three motions may be considered at each Council meeting unless the Chair agrees, by virtue of special urgency, that additional motions may be considered. Any motions that cannot be considered at the meeting will be deferred for consideration at a future meeting of Council.
- 9.6 The motion on notice can be moved and seconded at the meeting by any Member. If the motion on notice is not moved, it will be treated as withdrawn and may not be moved without another notice in accordance with these rules. A motion may be withdrawn at any time by the proposer of the motion.
- 9.7 Once the motion has been moved and seconded, the Chair will invite Members to debate the motion. Only five Members, in addition to the proposer and seconder, may speak to the motion. Each Member may speak only once, for a maximum of three minutes on the motion. The proposer has the right of reply at the conclusion of the debate for three minutes.
- 9.8 The Chair has the discretion to extend the time allowed and/or the number of speakers to discuss the motion, to allow for the proposer (with the agreement of the seconder) to amend the motion, or to allow for the proposer to respond to questions or points of clarification on the motion.
- 9.9 At the conclusion of the debate, the motion shall be put to a vote and determined by a simple majority of those present and voting.
- 9.10 Where an agreed motion on notice refers a matter to a Committee for consideration, then a report shall be presented in due course to the Council on how the motion on notice was considered by that Committee and any consequential outcomes as a result.

## **10. Motions and amendments which may be moved without notice**

- 10.1 The following motions and amendments may be moved without notice:-
- (a) 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 on the agenda.
  - (d) To receive the reports or adopt the recommendations of the Cabinet or Committees, or reports and recommendations of Officers, and any consequent resolutions.
  - (e) To refer something to an appropriate body or individual.
  - (f) To appoint a Committee or Member arising from an item on the summons for the meeting.
  - (g) To withdraw a motion.
  - (h) To extend the time limit for speeches.
  - (i) To amend a motion.
  - (j) To proceed to the next business.
  - (k) To vote on a motion.
  - (l) To vote on an amendment.
  - (m) To adjourn a debate.

- (n) To adjourn a meeting.
- (o) To suspend a particular Council Procedure Rule.
- (p) To exclude or re-admit the public and press in accordance with the Access to Information Rules.
- (q) To direct that a Member named under Rule 17.3 below be not further heard or to exclude them from the meeting under Rule 17.4 below.
- (r) To give the consent of the Council where its consent is required by this Constitution.

10.2 A motion by the Chair under paragraph 10.1(p) below of these Rules, to exclude the public for an item of business, will be dealt with before any other motion on that item and will be voted on without discussion.

## **11. Rules of debate**

### **11.1 No discussion until motion or amendment seconded**

A motion or amendment will not be discussed or recorded in the minutes unless it has been proposed and seconded.

### **11.2 Motion may need to be in writing**

If the Chair requires, the motion will be put in writing before it is further discussed.

### **11.3 Secunder's speech**

When seconding a motion or an amendment, a Member may reserve the right to speak at a later point in the debate.

### **11.4 Content and length of speeches**

- 11.4.1 Speeches must be directed to the question under discussion or to a personal explanation or point of order.
- 11.4.2 No speech will be longer than five minutes, except as allowed by the Council following a motion moved and carried under Rule 10.1(h) below, and will be about the matter under discussion.
- 11.4.3 The five minutes time limit will not apply to a Member proposing a motion, or an amendment to a motion, who will be allowed to speak for no longer than ten minutes.

### **11.5 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 an amendment.
- (c) To move a further amendment (if the motion has been amended since they last spoke).

- (d) If their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried).
- (e) In exercise of a right of reply in accordance with paragraph 11.9 below of these Rules.
- (f) On a point of order in accordance with paragraph 11.12 below.
- (g) By way of personal explanation in accordance with paragraph 11.13 below.

#### 11.6 **Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:-
  - (i) To refer the matter to an appropriate body, forum, 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 words.

as long as the effect of (ii) to (iv) is not to cancel the effect of 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 consideration has been dealt with.
- (c) If an amendment is lost, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion, as amended, will take the place of the original motion and will become the actual motion upon which any further amendment may be moved.
- (e) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments. If there are no further amendments, the Chair will put the motion (as amended) to the vote.

#### 11.7 **Alteration of motion**

A Member may, with the agreement of the Chair, and without discussion:-

- (a) Change a motion of which they have given notice under Rule 9 above; or
- (b) With the agreement of their seconder, change a motion which they have moved.
- (c) But only alterations which could be made as an amendment in accordance with paragraph 11.6(a) above of these Rules may be made.

## 11.8 **Withdrawal of motion**

- (a) A motion or an amendment may be withdrawn by the mover, but only with the consent of the seconder and the Chair, which will be given without discussion.
- (b) No Member may speak on the motion after the mover has asked for consent to withdraw it, unless consent is not given.

## 11.9 **Right to reply**

- (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 also has the right of reply at the end 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.
- (d) A reply under this paragraph will be confined to matters raised in the debate on the motion or amendment.
- (e) After every reply to which this Rule refers, a vote will be taken without further discussion.

## 11.10 **Motions which may be moved during a debate**

11.10.1 When a motion is being discussed, no other motion may be moved except the following (non-closure) motions:-

- (a) To withdraw a motion.
- (b) To amend a motion.
- (c) That the subject of debate:-
  - (i) Be referred to the appropriate forum for consideration.
  - (ii) Be referred back to the appropriate forum for further consideration.
- (d) To exclude the public and press in accordance with the Access to Information Rules.
- (e) That a Member be not further heard in accordance with paragraph 17.3.1 below of these Rules; and
- (f) By the Chair, in accordance with paragraph 17.4.1 below of these Rules, that a named Member leave the meeting.

11.10.2 Any of the motions under paragraph 11.10.1 above of these Rules will not take away from the mover of the original motion the right to reply.

## 11.11 **Closure motions which may be moved during a debate**

- (a) A Member may move, without comment, any of the following closure motions at the end of a speech of another Member:-
  - (i) To move to the next business.
  - (ii) That the question be put.
  - (iii) To adjourn the debate; or

- (iv) To adjourn the meeting.
- (b) If a motion "*to move the next business*" or "*that the question be put*" is seconded and the Chair thinks the item has been sufficiently discussed, they will put the closure motion to the vote. If it is passed, the Chair will give the mover of the original motion a right of reply before putting that original motion to the vote.
- (c) If a motion "*to adjourn the debate*" or "*to adjourn the meeting*" is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the closure motion to the vote without giving the mover of the original motion the right of reply.

#### **11.12 Point of order**

- 11.12.1 A Member may ask to make a point of order at any time and will have the right to be heard at once, but will stay silent until asked by the Chair to speak.
- 11.12.2 A point of order will only be about a claimed breach of a provision of these Council Procedure Rules or of law and the Member will indicate the paragraph(s) or law and the way in which they consider it has been broken.
- 11.12.3 The ruling of the Chair on the matter will be final and will not be open to discussion.

#### **11.13 Personal explanation**

- 11.13.1 A Member may ask to give a personal explanation at any time and will have the right to be heard at once, but will stay silent until asked by the Chair to speak.
- 11.13.2 A personal explanation will be confined to some material part of an earlier speech by the Member which may appear to have been misunderstood in a later stage of the debate.
- 11.13.3 The ruling of the Chair on the admissibility of a personal explanation will be final.

### **12. Previous decisions and motions**

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

A motion to overturn a decision made at a meeting of the Council within the past six months cannot be moved unless the notice of motion is signed by at least fifteen Members. Once the motion is dealt with, no Member can propose a similar motion for six months.

12.2 The restrictions contained in paragraph 12.1 above do not apply to:-

- (a) A recommendation contained in a referral from Cabinet or any Committee to the Council.
- (b) A recommendation contained in a report presented individually or collectively by Chief Officers.

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

A motion or amendment which means the same or largely the same as one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least fifteen Members. Once the motion or amendment is dealt with, no Member can propose a similar motion or amendment for six months.

## **13. Voting**

### **13.1 Simple majority**

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

### **13.2 Chair's casting vote**

13.2.1 The Chair should exercise their casting vote with appropriate caution. A casting vote is only called upon when Members cannot reach a majority and due respect should be given to the lack of consensus. However, the Chair is ultimately entitled to exercise their vote as they consider appropriate.

13.2.2 In the case of the Chair refraining from exercising a second vote the motion or amendment being voted on will not be carried.

### **13.3 Show of hands**

Unless a recorded vote is demanded under paragraph 13.4.1 below or required under paragraph 13.4.2 below of the Rules, the Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **13.4 Recorded vote**

13.4.1 If, before a vote is taken, a Member asks that the voting be recorded and the request is supported by ten other Members (who will show their support by a show of hands):-

- (a) The Officer advising the Chair at the meeting will call the name of each Member present at the meeting.
- (b) The Member will say whether they are for or against the motion or are abstaining; and
- (c) Each Member's response will be recorded in the minutes.

13.4.2 There will also be a recorded vote when required by law. This includes that a recorded vote will be required at a meeting of the Council on motions, amendments or substantive motions relating to the approval of the budget or setting of council tax, whereby there shall be recorded in the minutes the names of the Members who cast a vote for the motion/amendment or against the motion/amendment or who abstained from voting. As this is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 2001, it cannot be suspended under Council Procedure Rule 19.1 below.

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

Where any Member so requires, immediately after a vote has been taken on any matter, the minutes must record whether that Member voted for or against or abstained.

### 13.6 **Voting on appointments**

13.6.1 If there are more than two people nominated for any position to be filled, a vote shall be taken. If there is not an overall majority of votes in favour of one person, then the name of the person (or persons) with the fewest votes will be taken off the list and a new vote taken. This shall be repeated until only one candidate remains with an overall majority.

13.6.2 If, in the scenario that there was a tie for the fewest number of votes, and removal of the candidates would mean only one candidate is left, then, the Chief Executive (or their representative) will draw lots between those with the fewest votes to determine which of the candidates with fewest votes will proceed to the next round;

13.6.3 Where more than one position is contested (for example, there are to be two Vice-Chairs of a Committee) each position will be voted on separately.

13.6.4 In the event of there being an equality of votes for the final two candidates, lots will be drawn by the Chief Executive (or their representative) to decide which person is elected.

## 14. **Minutes**

### 14.1 **Approval and signing**

- (a) The Chair will sign the minutes of the proceedings, once they are confirmed as a correct record, at the next suitable meeting.
- (b) In this regard, the Chair will seek a mover and seconder for the motion "*that the minutes of the meeting of the Council held on .....*" be confirmed and signed as a correct record".
- (c) There will be no discussion on the minutes, except by way of a motion upon their accuracy.

### 14.2 **No requirement to sign minutes of previous meeting at extraordinary or special meeting**

The minutes of the preceding meeting of the Council will not be submitted to an Extraordinary or Special meeting of the Council for approval but will be submitted to the next ordinary meeting.

## 15. **Record of attendance**

15.1 The Democratic Services Officer present at the meeting shall record the names of those Members that are in attendance.

## **16. Exclusion of public**

- 16.1 If a matter may fall within the list of exempt or confidential information set out in Section 100(A)(4) of the Local Government Act 1972, the matter will not be discussed until the Council has decided whether the public should be excluded from the meeting.
- 16.2 Members of the public may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or paragraph 18 below (Disturbance by Public) of these Rules.

## **17. Members' conduct**

### **17.1 One member to speak at a time**

- (a) When speaking, a Member will stand at their place and address the Chair. If two or more Members indicate to speak at the same time, the Chair will call on one to speak; and
- (b) While a Member is speaking, all other Members will remain silent and seated unless asking to make a point of order or of personal explanation.

### **17.2 Respect for the chair**

Whenever the Chair rises during a debate the Member then standing and speaking will stop speaking and sit down and the Council will be silent.

### **17.3 Member not to be heard further**

- 17.3.1 If, at a meeting, any Member, in the opinion of the Chair, repeatedly ignores the Chair's ruling or behaves irregularly, improperly or offensively, or wilfully obstructs the business of the Council, the Chair or any other member may move "*That the member named be not further heard*" and the motion, if seconded, will be voted on without discussion.

### **17.4 Continuing misconduct of a named member**

- 17.4.1 If the Member named continues to behave improperly after a motion in accordance with paragraph 17.3 above is carried, the Chair will move a motion that either:-

- (a) The meeting be adjourned for however long the Chair states; or
- (b) The Member named leave the meeting.

If seconded, the motion will be voted on without discussion.

- 17.4.2 If, after a motion under paragraph 17.4.1 above of these Rules has been carried, the Member named does not leave the meeting, the Chair may order the removal of the Member and may adjourn the meeting without debate or resolution to enable removal to take place.



## **17.5 General disturbance**

In the event of general disturbance among the Members which, in the opinion of the Chair, makes it impossible to carry on the meeting, the Chair may stand and declare the meeting adjourned for however long as they state.

## **17.6 Interpretation of rules - ruling of Chair not to be challenged**

The decision of the Chair about the meaning or use of any of these Rules, or about any proceedings of the Council, is final and may not be challenged.

## **17.7 Interests of members in matters under discussion**

Members must observe the rules in the Members' Code of Conduct in Part 5 of this Constitution. Any Member declaring a disclosable pecuniary interest must leave the room where the meeting is being held for as long as the matter is being considered.

## **18. Disturbance by public**

### **18.1 Removal of member of the public**

If a member of the public interrupts the proceedings of any meeting, the Chair will warn the person concerned not to interrupt. If the interruption is repeated and the matter escalates such that the Chair has concerns for the safety of those present, the Chair will order the removal of that person from the meeting room. The Chair may without debate or resolution adjourn the meeting to allow removal to take place.

### **18.2 Clearance of part of meeting room**

In the case of general disturbance in any part of the meeting room open to the public, the Chair will give a warning and if the disturbance continues will order that part to be cleared, but may identify persons who may remain. The Chair may without debate or resolution adjourn the meeting to allow clearance to take place.

### **18.3 No re-admittance for those removed**

In the case of paragraphs 18.1 and 18.2 above, any member of the public removed from a meeting following a disturbance will not be re-admitted during the remainder of that meeting and the Chair will determine any actions arising from the disturbance.

## **19. Suspension and amendment of Council procedure rules**

### **19.1 Suspension**

All of these Council Rules of Procedure except Rules 13.4.2 and 14.1 above may be suspended by motion on notice (in accordance with

paragraph 9.1 above of these Rules) or without notice under if at least one half of the whole number of Members of the Council are present. Suspension can only be for the whole or part of the meeting at which they are suspended.

## **19.2 Amendment**

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council with a report and recommendation from the appropriate forum/Officer.

## **20. Custody of seal**

20.1 The Common Seal of the Council will be kept by the Director (HR, Governance and Regulatory).

## **21. Arms of the Council – use or reproduction**

21.1 Any application to use or reproduce the Arms granted to the Council will be referred to the Director (HR, Governance and Regulatory) in consultation with the Chair, and that Officer will refuse or grant permission, or refer the application to the Council for a decision.

## Appendix A

### West Suffolk Council Petition Scheme

#### 1. Introduction

- 1.1 This Scheme sets out the details of how the West Suffolk Council will deal with and respond to petitions.

#### 2. Petitions

- 2.1 The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns.
- 2.2 Petitions that meet the requirements about the number of signatories set out below can be presented at a meeting of Council, Cabinet or a Committee or can trigger a Council Debate, prompt the review of a Traffic Regulation Order (TRO) or require specified Officers of the Council to give evidence to a meeting of the Overview and Scrutiny Committee. The Overview and Scrutiny Committee is a committee of Councillors who are responsible for scrutinising the work of the Council.
- 2.3 Petitions can be received by the Council in a number of ways:-
- (a) Petitions can be sent in writing to:  
  
Monitoring Officer  
West Suffolk Council  
West Suffolk House  
Western Way  
Bury St Edmunds  
Suffolk  
IP33 3YU
  - (b) Electronic petitions can be created, signed and submitted by using free software that is available online. A number of websites provide this service which can be easily found by using an internet search engine.
  - (c) Petitions can also be presented to a meeting of Council, Cabinet, or an appropriate Committee. Details of the meetings timetable can be found here [Calendar of Meetings](#)
- 2.4 If you would like to present your petition at a meeting of the Council, Cabinet or Committee or would like your Councillor to present it on your behalf, please contact:-

Monitoring Officer  
Telephone: (01284) 757162  
E-mail: [democratic.services@westsuffolk.gov.uk](mailto:democratic.services@westsuffolk.gov.uk)

at least seven working days before the meeting and help you to arrange this.

### **3. What are the guidelines for submitting a petition?**

3.1 Petitions submitted to the Council must be about:

- (a) A service that the Council provides and include a clear and concise statement covering the subject of the petition; or
- (b) A Traffic Regulation Order (TRO) within the West Suffolk boundary.

3.2 It should state:-

- (a) The contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petitioner will not be placed on the Council's website.
- (b) What action the petitioners wish the Council to take.
- (c) (For petitions relating to TROs) the name of the TRO in effect (eg car park or road name) and which aspects the petitioners wish to see reviewed.
- (d) The name and address and signature of any person supporting the petition. The contact details of the petition organiser will not be placed on the website.
- (e) The petition must contain the signatures of people who live, work or study in the Council's area.

3.3 If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser. We will not consider petitions which are considered by the Director (HR, Governance and Regulatory) to be vexatious, abusive or otherwise inappropriate and these will not be accepted. In that case, we will write to you to explain the reasons.

3.4 If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply (unless your petition fails to meet that requirements for those procedures or, is about the failure to deliver service in those areas, rather than a specific case).

3.5 In the period leading up to an election or referendum we may need to deal differently with your petition. If this applies we will explain the way that we will deal with the petition.

3.6 The Council can reject a parking petition in the following circumstances. If the petition:

- (a) Requests a review of many traffic regulations over too wide an area.
- (b) Is a series of petitions from a small or non-resident group addressing a particular aspect of the parking policies over a number of areas.
- (c) Relates to a TRO where a review has taken place in the last 12 months and where there has been no significant external change.

3.7 We will inform the petition organiser at the earliest opportunity of the grounds for rejecting a petition and will advise on how the petition could be validly submitted.

#### **4. What will the Council do when it receives my petition?**

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

4.2 If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. Depending on the number of signatures, whether it can be presented to Council, Cabinet or an appropriate Committee, then the acknowledgment will confirm this and tell you when and where the next meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

4.3 When a petition is seeking the review of a parking policy, the Council will confirm the aspects of parking policy concerned, whether the review is valid and has been accepted and advise the petition organiser of the next steps.

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

4.5 To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed).

#### **5. How will the Council respond to petitions?**

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

- (a) Taking the action requested in the petition.
- (b) Considering the petition at a Council meeting.
- (c) Holding an inquiry into the matter.

- (d) Undertaking research into the matter.
- (e) Holding a public meeting.
- (f) Holding a consultation.
- (g) Holding a meeting with petitioners.
- (h) Referring the petition for consideration by the Council's Overview and Scrutiny Committee.
- (i) Calling a referendum.
- (j) Writing to the petition organiser setting out our views about the request in the petition.

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

## **6. Petitions requesting the review of a Traffic Regulation Order (TRO)**

6.1 The Council's wider petition scheme will only accept petitions with at least 20 signatures. Taking this into account, and considering the size of the Council's car parks, the minimum number of signatures that can prompt the review of a TRO is 20. Any petition received with the number of signatures below that number will be rejected as invalid.

6.2 TROs are reviewed annually by the Overview and Scrutiny Committee. When a petition contains 20 or more signatures, the review requested will be included as part of the review for consideration.

6.3 Once the petition has been accepted as valid, the petition organiser will be advised of the following:

- (a) What the review will involve.
- (b) Whether any public consultation is required.
- (c) The likely timescale and dates of meetings when the review will be considered.
- (d) That they will receive regular updates.
- (e) A copy of the report to be considered by the Overview and Scrutiny Committee will be sent to the petition organiser to consider and respond to before a final decision is made.

## **7. Petition requiring Council debate**

7.1 If a petition contains more than 2500 signatures it will be debated by Council unless it is a petition asking for a senior Council Officer to give evidence at a public meeting.

7.2 The issue raised in the petition will be discussed at a Council meeting which all Councillors can attend. The petition organiser will be given not more than five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of 20 minutes. The Council will decide how to respond to the petition at this meeting, it may decide to:-

- (a) Take the action the petition requests.
- (b) Not to take the action requested for reasons put forward in the debate; or
- (c) To commission further investigation into the matter, for example by referring it to a relevant Committee.

7.3 The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

## **8. Petition requiring an officer to give evidence**

8.1 If it contains at least 1250 signatures your petition may ask for a senior Council Officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. A list of the Officers that can be called to give evidence is as follows:-

- Chief Executive
- Strategic Directors
- Directors

8.2 For example, your petition may ask a senior Council Officer:-

- To explain progress on an issue; or
- To explain the advice given to elected Members to enable them to make a particular decision.

8.3 The evidence will be given at a meeting of the Council's Overview and Scrutiny Committee and you will be given due notice to enable you to attend. These meetings are normally held in public, but the Committee has the option to exclude the press and public from any part of the meeting that discusses confidential information. You should be aware that the Overview and Scrutiny Committee may decide that it would be more appropriate for another Officer to give evidence instead of any Officer named in the petition, for instance if the named Officer has changed jobs. Committee Members will ask the questions at this meeting, but you will be able to suggest questions to the Chair of the Committee by contacting the Monitoring Officer on (01284) 757162 or email: [democratic.services@westsuffolk.gov.uk](mailto:democratic.services@westsuffolk.gov.uk) up to three working days before the meeting.

8.4 Petitions containing not less than 100 signatories can be presented at a meeting of Council during Public Question Time, provided seven working days notice has been given to the Proper Officer before the meeting. The Council will, without debate, refer any petition to the appropriate forum for consideration.

8.5 If petitioners so wish, a petition containing not less than 20 signatures may, instead, be presented to the Leader of the Council or to the Chair of the appropriate Committee or the relevant Chief Officer, for consideration by the Cabinet or the appropriate Committee(s), provided seven working days' notice in writing has been given to the Proper Officer before the relevant meeting. When a petition is considered by the Cabinet or the

appropriate Committee, a representative of the petitioners may speak at the meeting for not more than three minutes.

## **9. E-petitions**

- 9.1 The Council welcomes petitions in electronic format. A number of websites are available that allow electronic petitions to be created and for the final petitions to be emailed to the Council. These should be sent to: [democratic.services@westsuffolk.gov.uk](mailto:democratic.services@westsuffolk.gov.uk)
- 9.2 Please note that the Council is not responsible for the content of any external websites used to create e-petitions. The Council shall not be liable for how your personal data may be used by the website providers or the petition host.
- 9.3 The e-petition organiser will need to:-
- (a) Provide us with their name, postal address and email address.
  - (b) State how long you would like your petition to be open for signatures (most petitions run for three months, but you can choose a shorter period).
- 9.4 When an e-petition has closed for signature, the petition organiser should submit it to [democratic.services@westsuffolk.gov.uk](mailto:democratic.services@westsuffolk.gov.uk) for further consideration as appropriate. In the same way as a paper petition, you will receive an acknowledgement within 10 working days. If you would like to present your petition to the Council, or would like your Councillor to present it on your behalf, please contact:

Monitoring Officer  
Telephone: (01284) 757162 or  
Email: [democratic.services@westsuffolk.gov.uk](mailto:democratic.services@westsuffolk.gov.uk)

within five days of the petition closing.

- 9.5 The acknowledgment and response to the e-petition will also be published on the Council's website.

## **10. How do I 'sign' an e-petition?**

- 10.1 The free online software used will enable people wishing to 'sign' the petition free of charge by submitting their name and email address. The signer will usually receive an automatic email from the provider, asking them to confirm that they want to sign the petition.

## **11. What if my petition has not been dealt with properly?**

- 11.1 If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Council's Overview and Scrutiny Committee review the steps that the Council has taken in response to your petition.



- 11.2 The Committee will consider your request at the next available meeting receiving it. Should the Committee determine that the Council has not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council and arranging for the matter to be considered at a meeting of the Council.
- 11.3 Once the appeal has been considered the petition organiser will be informed of the results within five working days. The results of the review will also be published on our website.

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## West Suffolk Council

### Committee Procedure Rules

#### 1. Terms of reference

- 1.1 The terms of reference of Committees will be approved by the Cabinet or Council as appropriate.
- 1.2 Every Committee will be able to propose changes to its own terms of reference for consideration by the Cabinet or Council.

#### 2. Time and place of meetings

- 2.1 Committee and Sub-Committee meetings shall take place on the dates and at the times set out in the Calendar of Meetings approved by Council before the start of each civic year, except that:-

- a) The Members of any Committee or Sub-Committee may resolve to hold the meetings at a time that is different from that in the calendar, but is the same for every meeting.
- b) The Chair, after appropriate consultation and before the publication of the agenda for any given meeting, may alter the date, time or place of any meeting if, in their opinion, it would assist the efficient conduct of the committee or Sub-Committee's business.

but in all cases regard will be had to the compatibility of the date, time or place proposed with the right of the public to attend.

- 2.2 An extraordinary meeting of a Committee or Sub-Committee may be called by:-

- a) The Chair or in their absence, the Vice-Chair; or
- b) By any three Members of the Committee or Sub-Committee giving written notice to the Chief Executive specifying the business to be transacted.

- 2.3 A Chair may cancel a Committee or Sub-Committee meeting if they consider that there is insufficient business to transact or that it would assist the efficient conduct of the Committee or Sub-Committee's business.

#### 3. Publication and distribution of agendas

- 3.1 Notice of the time and place of any meeting will be published in accordance with the Access to Information Procedure Rules.
- 3.2 Unless convened at shorter notice, at least five clear days before a meeting, the agenda will be published electronically and made available to the public and Members.

- 3.3 The agenda 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.
- 3.4 The validity of a meeting will not be affected by a Member being unable to access the agenda and reports.
- 3.4 Informal meetings or Panels will not be covered by the Rules in this section.

#### **4. Quorum**

- 4.1 The quorum of Committees, Sub-Committees, Working Parties and Panels shall not be less than three Members, or one third of the total membership, whichever is the greater, and will be as determined by the Monitoring Officer, having regard to that principle.
- 4.2 No business will be dealt with unless the Committee or Sub-Committee is quorate. Any items of business that cannot be dealt with because the meeting is or becomes inquorate shall stand adjourned for consideration at the next ordinary meeting of the Committee or Sub-committee unless:-
- a) The Chair and Leader agree a date and time for the meeting to continue; or
  - b) An extraordinary meeting is called in accordance with Rule 2.2 above; or
  - c) The remaining items of business are for information only and do not require a formal decision.
- 4.3 A Committee or Sub-Committee may still debate the substance of items on their agenda even if not quorate. However, they may not make any decisions on any item.

#### **5. Attendance register**

- 5.1 The Democratic Services Officer present at the meeting shall record the names of those Members that are in attendance.

#### **6. Election of chairs and vice-chairs of committees and sub-committees**

- 6.1 Except in the case of the Overview and Scrutiny Committee and the Performance and Audit Scrutiny Committee (whose Chair and Vice-Chair are appointed by the Council), every Committee and every Sub-Committee will, as its first business as a newly appointed Committee following each Annual Meeting of the Council, elect a Chair and Vice-Chair.
- 6.2 Except in an ordinary election year, the Members who were Chair and Vice-Chair prior to the Annual Meeting will, if still in office and

Members of the relevant Committee or Sub-Committee, remain in post until immediately prior to its first meeting after the Annual Meeting. If the Council cancels, defers or delays the Annual Meeting, the Members, the Chair and the Vice-Chair, shall remain in post until such time that a successor is appointed.

- 6.3 Unless otherwise stated, the Chair and Vice-Chair of every Committee and Sub-Committee will be elected Members of the Council.

## **7. Order of business**

- 7.1 Unless changed in accordance with Rule 7.2 below the order of business at Committee and Sub-Committee meetings will be:-

- (a) To elect a Chair or to choose a Member to preside if the Chair and Vice-Chair are not present.
- (b) To deal with any business required by law to be dealt with first.
- (c) Declaration of substitutions.
- (d) Apologies for absence.
- (e) To confirm as a correct record and sign available minutes from previous meetings.
- (f) Declarations of Interest.
- (g) Public speaking in accordance with Rule 11 below.
- (h) To receive any petitions in accordance with the Council's Petition Scheme.
- (i) To deal with any business remaining from the last meeting in accordance with Rule 4.2 below.
- (j) To receive and consider any items arising from Panels, Working Groups or Sub-Committees appointed by the Committee.
- (k) Other business as set out on the agenda.
- (l) Agenda items requested by Members in accordance with Rules 13 and 14 below (Questions on notice and Motions which need written notice).
- (m) To consider the date and time of the next meeting and any proposals for future agenda items under Rule 12 below.
- (n) To consider any business which, by reason of special circumstances should in the opinion of the Chair, be considered at the meeting as a matter of urgency. The special circumstances concerned shall be specified in the minutes of that meeting.

- 7.2 The order of business except for items (a) to (e) above may be changed:-

- (a) Before or at a meeting, as the Chair sees fit; or
- (b) By a resolution of the meeting passed on a motion under Rules 14 or 15.1(c) below.

## **8. Chairing a meeting**

- 8.1 Subject to paragraph 8.3 below, where the Chair is not present the Vice-Chair will, if present, chair the meeting.
- 8.2 If the Chair and Vice-Chair are not present at a meeting, the Members present will choose one of their number to chair the meeting.
- 8.3 If, after the start of a meeting:-
  - (a) The Chair arrives; or
  - (b) A Vice-Chair arrives when the Chair is not present, they will take the chair of the meeting after any item which is being discussed when they arrive has been dealt with.

## **9. Substitutes Powers and Duties**

- 9.1 Once a substitute has been declared, they will have the ordinary status of a Member present in their own right and will not be the delegate of the original Member. They will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting. Any disqualification of the original Member to speak or vote, however, is not transferred to the substitute. Conversely, if a substitute Member is disqualified to speak or vote on a particular item, they must declare it.
- 9.2 If an original Member arrives at a meeting at which a substitute has already been declared, the substitute will remain the Member entitled to speak and vote. Once a substitution has been declared, the original Member will not be entitled to attend the meeting, either as a Member of the Committee or Sub-Committee or 'by invitation' (*this is because if a substitution is declared it is on the pre-supposition that the original Member has declared themselves unable to attend the meeting*).
- 9.3 The procedure for the appointment of temporary substitutes will be in accordance with the Council Procedure Rules as set out in Part 4 of this Constitution.

### **Substitution Rules**

- 9.4 At the commencement of each meeting of a Committee or Sub-Committee (or upon arrival, if arriving late) each Member substituting for another Member will declare the said substitution.
- 9.5 Once a substitute has been declared as present in place of a Member for a meeting of that Committee or Sub-Committee, that substitute will take the place of the Member and will be able to

Speak and vote (subject to the declaration of any interests, as is usual practice).

- 9.6 Once a substitute has declared that they are substituting for another Member, the original Member will not be able to replace the substitute Member during the course of the meeting. If the substitute Member leaves the meeting during the course of the meeting, the original Member will not be allowed to attend and vote in place of the substitute.
- 9.7 If, at the commencement of the meeting, the original Member is present, then a substitution cannot take place.
- 9.8 Any original Member of a Committee may seek a substitute for that Committee or Sub-Committee, provided that they are from the same political group to maintain political balance and that the substitute has received training to sit on that Committee or Sub-Committee (if required) within the preceding six months.
- 9.9 No substitute Member has the automatic right to substitute for another Member who is not present. It is for the original Member to select a substitute in accordance with paragraph 9.8 above. However, where the original Member is incapacitated, due to sickness or hospitalisation and is, therefore, unable to appoint a substitute Member themselves, then their Group Leader will be asked to nominate a Member from the same political group to substitute for the original Member.
- 9.10 Substitute Members cannot be appointed to attend meetings for a Member who ceases to be a member of the Council (ie by way of resignation, disqualification or death in service). Instead, the relevant seat shall be carried as a vacancy on the Committee until an alternative appointment is made.

## **10. Attending and speaking at committee and sub-committee meetings**

- 10.1 Except as provided in Rules 10.2 to 10.5 below, a Member of the Council shall not be entitled to speak or vote at a meeting of any Committee or Sub-Committee unless they are a Member of that Committee or Sub-Committee.
- 10.2 Where a motion stands referred to a Committee or Sub-Committee the mover and/or the seconder of the motion may attend the meeting which is to consider the motion and take part in any discussion about it, but cannot vote unless a Member of the Committee or Sub-Committee.
- 10.3 Local Members have the right to speak at a Committee meeting which is discussing matters that affect or relate to their Ward. However, this must comply with any requirements that are set out

in these Procedure Rules or as may be agreed by the Committee in question.

- 10.4 A Member who is not a member of a Committee or Sub-Committee but who wishes to speak at a meeting of that body will be permitted to do so if they have indicated in advance to the Chair that they wish to speak on a particular agenda item.
- 10.5 The Chair may at their discretion allow non-members of the Committee or Sub-Committee to speak in situations not falling within paragraphs 10.2 to 10.4 above.

## **11. Public speaking**

- 11.1 Members of the public who live or work in the District are welcome to speak at any open meeting of a Committee or Sub-Committee. They may ask a question or make a statement on any item on the agenda for that meeting.
- 11.2 Where a meeting takes place at the Council Offices, a person who wishes to speak must register at least fifteen minutes before the time the meeting is scheduled to start. This can be done online by sending the request to [democratic.services@westsuffolk.gov.uk](mailto:democratic.services@westsuffolk.gov.uk) or telephoning 01284 757176/01638 719363 or in person by telling the Committee Administrator present at the meeting. The Chair of the Committee has discretion to allow anyone who has not registered to be able to speak.
- 11.3 The Monitoring Officer in respect of any question notified before the meeting, or the Chair, in respect of any question notified at the meeting, may reject a question if it:-
- (a) Is not about a matter for which the Council has a responsibility or which affects the District.
  - (b) Is defamatory, frivolous or offensive.
  - (c) Is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
  - (d) Requires the disclosure of confidential or exempt information.
- 11.4 There will be an overall time limit of 15 minutes for public speaking, which may be extended at the Chair's discretion. Speakers will be called in the order in which they gave notice. Each person may ask one question or make one statement and will be allowed up to three minutes. If the question can be answered orally at the meeting it will be, and the question and answer will be summarised in the minutes. Questions that cannot be answered immediately will be answered in writing to the questioner, distributed to all Members of the Committee or Sub-Committee and published on the Council's website. If a question is asked and answered within three minutes, the person who asked the question may ask a supplementary question that arises from the reply which may be answered orally or in writing as above.



- 11.5 These public speaking rules do not apply to meetings of the Development Control Committee, as the Committee has its own authority to determine from time to time, its own arrangements for public speaking on applications, and which matters are to be included within those arrangements (see Part 3 – Functions and Responsibilities; Section 2 – Responsibility for Council (Non Executive) Functions; A-Development Control and as set out in the [Guide to having a say on planning applications](#)).
- 11.6 These public speaking rules do not apply to meetings of the Licensing and Regulatory Committee, when the Committee sits as a hearing, in which case the Hearing Procedure Rules will apply (see Part 3 – Functions and Responsibilities; Section 2 – Responsibility for Council Functions; B-Licensing).

## **12. Agenda items requested by members**

- 12.1 Any Member of a Committee or Sub-Committee may propose under Rule 7.1(l) above, an item to be considered at a future meeting of that Committee or Sub-Committee. The Member shall give notice of such items to the Chair and to the Monitoring Officer no later than 12 noon, seven working days before the date of the meeting (not including the day of the meeting) together with a brief explanation of the item and its purpose, which will then be published on the agenda.
- 12.2 To be eligible for consideration, the item proposed must fall within the terms of reference or the delegated powers of the Committee or Sub-Committee.
- 12.3 The Member shall present their proposal to the Committee or Sub-Committee and may be questioned on it before the Committee or Sub-Committee resolves whether or not to refer the matter to a future meeting for report and consideration in the usual way.

## **Questions on notice**

- 13.1 Subject to paragraph 13.5 below, a Member may submit in writing to the Monitoring Officer a question on notice for:-
- (a) The Chair; or
  - (b) The Chair of any Sub-Committee
- on any matter in relation to which the Committee or Sub-Committee has powers or duties.
- 13.2 A Member may ask only one question on notice under paragraph 13.1 above at each meeting and:-
- a) Must submit it in writing to the Monitoring Officer no later than 12 noon, seven working days before the meeting, not counting the day of the meeting; or

- b) If the question is urgent and the Member has the consent of the Member to whom the question is to be put, must submit it in writing to the Monitoring Officer by 12 noon on the working day before the meeting.
- 13.3 Every question on notice will be answered without discussion. The Member who is asked the question on notice may ask another Member to answer. An answer may take the form of:-
- (a) A direct oral answer summarised in the minutes.
  - (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 at the meeting, a written answer sent by the appropriate Officer and/or relevant Member to all Members within five working days of the meeting.
- 13.4 A Member asking a question on notice under paragraph 13.1 above, may ask one supplementary question, without notice, of a Member to whom the first question was asked. The supplementary question must arise directly from the original question or the reply. The total time allowed for each question, including any supplementary question, to be put and answered will be ten minutes.
- 13.5 If the Member who gave notice of the question is not present at the meeting, any other Member may ask that question but if that does not occur the Chair shall proceed to the next item of business. The question shall be deemed to have been withdrawn and may not be asked unless notice is given again in accordance with paragraph 13.1 above.

#### **14. Motions which need written notice**

- 14.1 Except for motions which can be moved without notice under Rule 15 below, written notice of every motion must be delivered to the Monitoring Officer no later than 12 noon, seven working days before the meeting, not counting the day of the meeting. Motions must be about matters for which the Committee or Sub-Committee has a responsibility.
- 14.2 Each Member may put one motion on notice at each meeting.
- 14.3 All motions on notice received under paragraph 14.1 above, will be set out in the agenda in the order in which they have been received.
- 14.4 A Member may withdraw a motion on notice at any time.
- 14.5 A motion on notice under paragraph 14.1 above, can be moved at the meeting by any Member. If the motion on notice is not moved,

it will be treated as withdrawn and may not be moved without another notice in accordance with paragraph 14.1 above.

- 14.6 Any motion on notice under paragraph 14.1 above, on being moved and seconded, will usually, without discussion, be referred to a future meeting for report and consideration. The Chair may, if they consider it appropriate, allow the motion to be dealt with at the meeting at which it is moved and seconded provided that the motion, if carried, would:
- (a) Involve the Council incurring expenditure not included in the Council's approved revenue or capital budget.
  - (b) Not involve the Council being committed to take action which would usually require public consultation or a statutory process to be followed prior to it being made

## **15. Motions and amendments which may be moved without notice**

- 15.1 The following motions and amendments may be moved without notice:-

- (a) 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 on the agenda.
- (d) To receive the reports or adopt the recommendations of any Sub-Committees, or reports and recommendations of Officers and any consequent resolutions.
- (e) To refer something to an appropriate body or individual.
- (f) To withdraw a motion.
- (g) To extend the time limit for speeches.
- (h) To suspend any of these Rules for the whole or part of the meeting.
- (i) To amend a motion.
- (j) To proceed to the next business.
- (k) To vote on a motion.
- (l) To vote on an amendment.
- (m) To adjourn a debate.
- (n) To adjourn a meeting.
- (o) To exclude or re-admit the public and press in accordance with the Access to Information Rules.
- (p) To direct that a Member named under Rule 20.3 below, be not further heard or to exclude them from the meeting under Rule 20.4 below.

- 15.2 A motion by the Chair under paragraph 15.1(o) below of these Rules, to exclude the public for an item of business, will be dealt with before any other motion on that item and will be voted on without discussion.

## **16. Rules of debate**

- 16.1 The Chair has authority to manage the meeting, debate and decision making in a manner they consider most appropriate to reach a clear conclusion on items on the agenda. With this in mind, for each substantive item of business, the following order will normally apply:-
- (a) Presentation of report by Chair, Cabinet Member or Officer, as deemed appropriate.
  - (b) Contributions by Members who have been invited by the Chair to also speak on the report. (Note: These Members may also be permitted to speak again at the discretion of the Chair).
  - (c) Contributions and discussions by Members of the Committee. The Chair may invite the proposer (or other appropriate persons) to respond to questions raised by Members during discussion.
  - (d) Except in relation to non-regulatory Committees, the Chair will support the Committee to formulate recommendations or decisions, as appropriate. The recommendation or decision shall then be subject to a formal vote.
  - (e) In relation to regulatory Committees, the Chair shall then invite a formal motion, which must be proposed and seconded. It would usually be expected that the motion would be immediately voted upon. If necessary to reach a conclusion on a matter, a subsequent motion may then be proposed.
- 16.2 It is expected that non-regulatory Committees will, as far as possible, seek to reach a consensus after discussion, without formal rules of debate. However, where there are differences of view which are unlikely to be resolved by consensus, the Chair may invite a formal motion, including seconding thereof, and after debate, put the matter to a vote. Amendments may be moved during the debate, although with the consent of the meeting, the Chair may choose to handle these informally where this is likely to assist the Committee in reaching an agreed conclusion.
- 16.3 On occasion and again with the consent of the meeting, the Chair may also apply the rules of debate to the handling of a recommendation in an Officer's report.
- 16.4 Where the formal rules of debate are applied to the proceedings in a meeting, paragraph 11 of the Council Procedure Rules contained within this Constitution shall apply.

- 16.5 The Chair shall control the meeting and may in particular:
- (a) Require a Councillor to restrict their speech to the matter under debate.
  - (b) Stop a Councillor from speaking if the Chair considered that their speech is irrelevant or is excessively long.
  - (c) Require a Councillor to explain statements they have made or provide examples to support their position.

**17. Approval and signing of minutes**

- 17.1.1 The Chair will sign the minutes of the proceedings, once they are confirmed as a correct record, at the next suitable meeting.
- 17.1.2 In this regard, the Chair will ask any Members if they have objection to the accuracy of the minutes. If there is no objection, then the Chair shall ask the Committee to verbally confirm they consider the minutes to be a correct record.
- 17.1.3 If there is objection, then the Members raising objection shall be asked to recommend changes to the minutes. The Chair shall then ask the Committee whether any Members object to the proposed amendments. If there is no objection, then the Chair shall ask the Committee to verbally confirm the minutes to be a correct record, subject to the proposed amendment.
- 17.1.4 If a Member(s) object to the proposed amendment, then the Chair shall seek a proposer and seconder for the amendment and then take a vote on the amendment. It is normally expected that only those Members who were present at the meeting to which the minutes relate, would take part in the vote. The Chair shall then seek a proposer and seconder for the substantive motion in the same manner.
- 17.1.5 There will be no discussion on the minutes, except by way of a motion upon their accuracy.

**17.2 No requirement to sign minutes of previous meeting at extraordinary or special meeting**

The minutes of the preceding meeting of the Committee or Sub-Committee may be submitted to an Extraordinary or Special meeting of that body for approval, if convenient and practicable to do so, but otherwise will be submitted to the next ordinary meeting.

### 17.3 **Content of minutes**

#### *Recommendations*

17.3.1 Every decision of a committee which is not within its delegated authority will be indicated by the word "RECOMMENDED", and will require approval by the appropriate body.

#### *Decisions*

17.3.2 Every decision of a Committee which is within its delegated authority will be indicated by the word "RESOLVED".

17.3.3 The recommendations of a meeting of a Sub-Committee will be sent to the next convenient meeting of the parent Committee.

## **18. Voting**

### 18.1 **Simple majority**

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

### 18.2 **Chair's casting vote**

18.2.1 The Chair should exercise their casting vote with appropriate caution. A casting vote is only called upon when Members cannot reach a majority and due respect should be given to the lack of consensus. However, the Chair is ultimately entitled to exercise their vote as they consider appropriate.

18.2.2 In the case of the Chairman refraining from exercising a second vote the motion or amendment being voted on will not be carried.

### 18.3 **Show of hands**

Unless a recorded vote is demanded under paragraph 18.4 below of the Rules, the Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### 18.4 **Recorded vote**

18.4.1 If, before a vote is taken, a Member asks that the voting be recorded and the request is supported by five other Members who will show their support by a show of hands:-

- (a) The Officer advising the Chair at the meeting will call the name of each Member present at the meeting.
- (b) The Member will say whether they are for or against the motion or is abstaining; and
- (c) Each Member's response will be recorded in the minutes.

18.4.2 There will also be a recorded vote when required by law.

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

Where any Member so requires, immediately after a vote has been taken on any matter, the minutes must record whether that Member voted for or against or abstained.

## **18.6 Voting on appointments**

18.6.1 If there are more than two people nominated for any position to be filled, a vote shall be taken. If there is not an overall majority of votes in favour of one person, then the name of the person (or persons) with the fewest votes will be taken off the list and a new vote taken. This shall be repeated until only one candidate remains with an overall majority.

18.6.2 If, in the scenario that there was a tie for the fewest number of votes and removal of the candidates would mean only one candidate is left, then the Officer advising the Chair at the meeting, will draw lots between those with the fewest votes to determine which of the candidates with the fewest votes will proceed to the next round.

18.6.3 Where more than one position is contested (for example, there are to be two Vice-Chairs of a Committee) each position will be voted on separately.

18.6.4 In the event of there being an equality of votes for the final two candidates, lots will be drawn by the Officer advising the Chair at the meeting to decide which person is elected.

## **19. Exclusion of public**

19.1 If a matter may fall within the list of exempt or confidential information set out in Section 100(A)(4) of the Local Government Act 1972, the matter will not be discussed until the meeting has decided whether the public should be excluded from the meeting.

19.2 Members of the public may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 21 (Disturbance by Public).

## **20. Members' conduct**

### **20.1 One member to speak at a time**

(a) When speaking, a Member will sit at their place and address the Chair. If two or more Members indicate to speak at the same time, the Chair will call on one to speak.

- (b) While a Member is speaking, all other Members will remain silent unless asking to make a point of order or of personal explanation.

## 20.2 **Respect for the chair**

Whenever the Chair rises during a debate the Member then speaking will stop speaking and the meeting will be silent.

## 20.3 **Member not to be heard further**

20.3.1 If, at a meeting, any Member, in the opinion of the Chair, repeatedly ignores the Chair's ruling or behaves irregularly, improperly or offensively, or wilfully obstructs the business of the meeting, the Chair or any other Member may move "*That the Member named be not further heard*" and the motion, if seconded, will be voted on without discussion.

## 20.4 **Continuing misconduct of a named member**

20.4.1 If the Member named continues to behave improperly after a motion in accordance with paragraph 20.3 is carried, the Chair will move a motion that either:-

- (a) The meeting be adjourned for however long the Chair states; or
- (b) The Member named leave the meeting.

If seconded, the motion will be voted on without discussion.

20.4.2 If, after a motion under paragraph 20.4.1 above of these Rules has been carried, the Member named does not leave the meeting, the Chair may order the removal of the Member and may adjourn the meeting without debate or resolution to enable removal to take place.

## 20.5 **General disturbance**

In the event of general disturbance among the Members which, in the opinion of the Chair, makes it impossible to carry on the meeting, the Chair may stand and declare the meeting adjourned for however long as they state.

## 20.6 **Interpretation of rules - ruling of Chair not to be challenged**

The decision of the Chair about the meaning or use of any of these rules, or about any proceedings of the Committee or Sub-committee, is final and may not be challenged.

## 20.7 **Interests of members in matters under discussion**

Members must observe the rules in the Members' Code of Conduct in Part 5 of this Constitution. Any Member declaring a disclosable



pecuniary interest must leave the room where the meeting is being held for as long as the matter is being considered.

## **21. Disturbance by public**

### **21.1 Removal of member of the public**

If a member of the public interrupts the proceedings of any meeting, the Chair will warn the person concerned not to interrupt. If the interruption is repeated, the Chair will order the removal of that person from the meeting room. The Chair may without debate or resolution adjourn the meeting to allow removal to take place.

### **21.2 Clearance of part of meeting room**

In the case of general disturbance in any part of the meeting room open to the public the Chair will give a warning and if the disturbance continues will order that part to be cleared, but may identify persons who may remain. The Chair may without debate or resolution adjourn the meeting to allow clearance to take place.

### **21.3 No re-admittance for those removed**

In the case of paragraphs 21.1 and 21.2 above, any member of the public removed from a meeting following a disturbance will not be re-admitted during the remainder of that meeting.

## **22. Suspension and amendment of committee procedure rules**

### **22.1 Suspension**

All of these Committee Procedure Rules except Rule 18.4 above (recorded vote) may be suspended by motion on notice (in accordance with Rule 14.1 above) or without notice under if at least one half of the whole number of Members of the Committee or Sub-Committee are present. Suspension can only be for the whole or part of the meeting at which they are suspended.

### **22.2 Amendment**

Any motion to add to, vary or revoke these Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Committee or Sub-Committee with a report and recommendation from the appropriate forum/Officer.

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## West Suffolk Council

### Cabinet Procedure Rules

#### 1. How does the Cabinet operate?

##### 1.1 Executive functions

The Cabinet is the Council's executive body and is responsible for carrying out those functions which by law or under this constitution are designated as "executive functions".

The arrangements for the discharge of executive functions are set out in Article 6. The arrangements may provide for executive functions to be discharged by:-

- (a) The Cabinet as a whole;
- (b) A Committee of the Cabinet;
- (c) An individual Member of the Cabinet;
- (d) An Officer;
- (e) An Area Committee;
- (f) Joint arrangements; or
- (g) Another local authority.

##### 1.2 Sub-delegation of executive functions

- (a) Where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for an executive function, they may delegate further to an Officer or by joint arrangements.
- (b) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

##### 1.3 Delegation of executive functions

- (a) Subject to (b) below, the delegation of executive functions will be as adopted by the Council and set out in Part 3 of this Constitution.
- (b) The Leader may amend the delegations to individual Cabinet Members (Portfolio Holders) relating to executive functions at any time during the year by giving written notice to the Monitoring Officer and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the scheme of delegation and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole. The appropriate

amendments to the Constitution will be made by the Monitoring Officer.

- (c) Where the Cabinet seeks to withdraw delegation from a Committee, notice will be deemed to be served on that Committee when the Leader has served it on its Chair.

#### **1.4 Meetings of Cabinet**

The Cabinet will meet at times to be agreed by the Leader at either of the Council's main Offices or another location to be agreed by the Leader and will be held in public except in accordance with the Access to Information Procedure Rules. Notice of the dates and times of meetings, and their agendas, will be published in accordance with the Access to Information Procedure Rules.

#### **1.5 Quorum**

The quorum for a meeting of the Cabinet, or a Committee of it, shall be one third of the total number of Members of the Cabinet (including the Leader) or three, whichever is the larger.

#### **1.6 How are decisions to be taken by the Cabinet?**

- (a) Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules.
- (b) Where executive decisions are delegated to a Committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

### **2. How are executive meetings conducted?**

#### **2.1 Who presides?**

The Leader, or in their absence the Deputy Leader, will preside at any meeting of the Cabinet or its Committees at which they are present. In the absence of the Leader and Deputy Leader the members of the Cabinet who are present shall choose a Member to preside.

#### **2.2 Who may attend?**

- 2.1.1 The public may attend in accordance with the Access to Information Rules in Part 4 of this Constitution. Members of the public who live or work in the District may speak or ask one question in accordance with the provisions for public speaking in the Committee Procedure Rules.

2.1.2 Any member of the Council who is not a member of the Cabinet may attend a meeting of the Cabinet. They can speak:-

- (a) To ask a question or make a statement in accordance with Rule 2.4.1 below; or
- (b) If invited to by the person presiding.

### 2.3 **What business?**

At each meeting of the Cabinet or a Committee of the Cabinet the following business will be conducted:-

- (a) Apologies for absence.
- (b) Confirm as a correct record and sign the minutes of the last meeting.
- (c) Declarations of Interest.
- (d) "Open forum" in accordance with Rule 2.4 below.
- (e) Public speaking/questions in accordance with Rule 11 of the Committee Procedure Rules.
- (f) The receipt of any petitions (submitted and presented in accordance with the Council's Petition Scheme).
- (g) Matters referred to the Cabinet, whether by the Overview and Scrutiny Committee, the Performance and Audit Scrutiny Committee, or by the Council for reconsideration in accordance with the provisions of contained in the Scrutiny Committees Procedure Rules or the Budget and Policy Framework Procedure Rules.
- (h) Consideration of reports from the Overview and Scrutiny Committee or the Performance and Audit Scrutiny Committee; and
- (i) 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 **Open Forum**

2.4.1 At each Cabinet meeting up to fifteen minutes shall be allocated for questions or statements from and discussion with non-Cabinet members. Members wishing to speak during this session may, but do not have to, give notice in advance. Who speaks and for how long will be at the complete discretion of the person presiding.

### 2.5 **Who can put items on the Cabinet agenda?**

2.5.1 Normally, the Leader will decide upon the schedule for the meetings of the Cabinet.

2.5.2 Subject to 2.5.1 above, an item will be placed on the agenda of the next scheduled meeting of the Cabinet where the

Overview and Scrutiny Committee, the Performance and Audit Scrutiny Committee or the Council have resolved that an item be considered by the Cabinet.

- 2.5.3 Subject to 2.5.1 above, the Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

## West Suffolk Council

### Scrutiny Committees Procedure Rules

#### A. OVERVIEW AND SCRUTINY COMMITTEE

##### 1. What will be the number of and arrangements for Overview and Scrutiny Committees?

- 1.1 The Council will have one Overview and Scrutiny Committee as set out in Article 7 and will appoint to it annually, unless Council cancels, defers or delays the Annual Meeting, in which case, the Members and the Chair and the Vice-Chair, shall remain in post until a successor is appointed. The Committee may appoint panels or 'task and finish' groups for fixed periods to consider specific issues.
- 1.2 The Committee will consist of a maximum of 16 members of the Council. *The Council will normally observe the rules governing political balance contained in Section 15 of the Local Government and Housing Act 1989 when allocating seats to the Overview and Scrutiny Committee but it may resolve to vary this provision if no Member votes against it.*
- 1.3 The terms of reference of the Overview and Scrutiny Committee will be:-
  - (a) The performance of all overview and scrutiny functions on behalf of the Council (explained in Article 7 of this Constitution) and as set out in Section 9F of the Local Government Act 2000
  - (b) To receive the draft West Suffolk Annual Report from the Leaders or representative(s) of Cabinet.
  - (c) To approve a rolling overview and scrutiny work programme, including the programme of any Panels or Groups it appoints, so as to ensure that the Committee's and Panels' or Groups' time is effectively and efficiently utilised;
  - (d) To put in place a system to ensure that referrals from the Overview and Scrutiny Committee to the Cabinet, either by way of report or for reconsideration, are managed efficiently.
  - (e) In the event of the volume of reports to the Cabinet creating difficulty for the management of Cabinet business or jeopardising the efficient running of Council business, at the request of the Cabinet, to make decisions about the priority of referrals made.

- (f) To act as the Crime and Disorder Committee for the purposes of Section 19 of the Police and Justice Act 2006 and associated regulations, and accordingly:
  - (i) To scrutinise the actions undertaken by the Community Safety Partnership and the partners who comprise it, insofar as their activities relate to the Partnership itself; and
  - (ii) To receive reports from the Suffolk Police and Crime Panel; and
  - (iii) To make reports or recommendations to the Council and partner organisations with respect to the discharge of those functions.
- (g) To consider local crime and disorder matters in accordance with the Councillor Call for Action Protocol.
- (h) To work collaboratively, as may be appropriate, with the scrutiny function of other local authorities to fulfil the crime and disorder scrutiny function.
- (i) To advise on the development of new policy in accordance with its agreed work programme.
- (j) To advise, where appropriate, on corporate projects and strategies.
- (k) To appoint informal Member Panels and 'Task and Finish' Groups to assist the work of the Committee; and
- (l) To review annually the work and constitution of such Panels and Working Parties.
- (m) To agree the procedures for the ways in which matters can be referred to the Committee and how its own Task and Finish Groups should be formed and operated.
- (n) To appoint one member of the Committee to act as the Council's representative on the Suffolk Health Scrutiny Committee who will report their findings back to the Overview and Scrutiny Committee and to appoint one member of the Committee as a substitute member on the Suffolk Health Scrutiny Committee.

## **2. Who may sit on the Overview and Scrutiny Committee?**

- 2.1 All Councillors, except members of the Cabinet and full Members of the Performance and Audit Scrutiny Committee, may be Members of the Overview and Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which they have been directly involved in the development of, or making.



### **3. Co-optees**

- 3.1 The Overview and Scrutiny Committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees. Panels and Working Groups of the Committee may appoint non-voting co-optees to assist with specific reviews.

### **4. Meetings of the Overview and Scrutiny Committee**

- 4.1 The Committee shall have meetings programmed approximately every six weeks (i.e. normally, there will be up to eight ordinary meetings of the Overview and Scrutiny Committee in each year).
- 4.2 Meetings will be conducted in accordance with the Committee Procedure Rules unless there are specific exceptions in these Overview and Scrutiny Procedure Rules.

### **5. Who chairs Overview and Scrutiny Committee meetings?**

- 5.1 Following discussions between Group Leaders, the Chair and Vice-Chair of the Overview and Scrutiny Committee will be appointed by the Council. In the event that there is a majority group within the Council, it will be desirable for:-
- (a) The Overview and Scrutiny Committee to be chaired by a Member who is not a member of the majority group; and
  - (b) The Vice-Chair of the Overview and Scrutiny Committee to be a member of the majority group.
- 5.2 The Chair and Vice-Chair will hold office until:-
- (a) They resign from the office of Chair or Vice-Chair; or
  - (b) They are no longer a Councillor; or
  - (c) The next Annual Meeting of the Council save that the Council may remove the Chair or Vice-Chair at an earlier date but only in the event of a change in the political control of the Council.
- 5.3 Upon the occurrence of a vacancy in the office of Chair or Vice-Chair, the Council shall fill the vacancy at the next ordinary meeting of the Council or, if the vacancy occurs as a result of the removal of the Chair and/or Vice-Chair in the event of a change in the political control of the Council, at the meeting at which that resolution was passed. The person appointed to fill the vacancy shall hold office for the remainder of the original term, subject to the rules on earlier termination in paragraph 5.2 above.

### **6. Work programme**

- 6.1 The Overview and Scrutiny Committee will be responsible for setting its own work programme and in doing so it shall take into account the wishes of Members of the Committee.

## **7. Agenda items**

- 7.1 Any Member of the Council shall be entitled to give notice to the Scrutiny Officer that they wish an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Scrutiny Officer will ensure that it is included on the next available agenda. The request must be by way of any procedures agreed by the Overview and Scrutiny Committee, in order to ensure the Committee has all the information it needs to decide whether to take the issue forward.
- 7.2 The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council, the Cabinet, and the Performance and Audit Scrutiny Committee to review particular areas of Council activity. Where it does so, the Overview and Scrutiny Committee shall report its findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Committee at its next meeting.

## **8. Policy review, service development and performance management**

- 8.1 The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- 8.2 In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within its terms of reference.
- 8.3 To fulfil its role, the Overview and Scrutiny Committee may hold enquiries and investigate the available options and may appoint advisers and assessors to assist it in this process. The Committee and any Panel it appoints may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that it reasonably considers necessary to form its deliberations. It may ask witnesses to attend to address it on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

## **9. Reports from Overview and Scrutiny Committee**

- 9.1 Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Scrutiny Officer for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate

(e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

- 9.2 The Chair, or in their absence, the Vice-Chair of the Overview and Scrutiny Committee will normally be responsible for presenting the report to the Cabinet or the Council as appropriate. However, in the case of the report of a panel or working group, the report to the Cabinet and/or Council can also be made by the Chair or Vice-Chair of the Panel/Working Group.
- 9.3 If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- 9.4 The Council or Cabinet shall consider the report of the Overview and Scrutiny Committee at the next available meeting.

## **10. Making sure that overview and scrutiny reports are considered by the cabinet**

- 10.1 Once the Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Scrutiny Officer who will allocate it to either or both the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. If the Scrutiny Officer refers the matter to Council, they will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Cabinet must be given the opportunity to respond to the Overview and Scrutiny report before the Council meets to consider it. When the Council does meet to consider any referral from the Overview and Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet to the Overview and Scrutiny Committee proposals.
- 10.2 The agenda for Cabinet meetings shall include an item entitled 'Issues arising from Overview and Scrutiny'. Any reports of the Overview and Scrutiny Committee referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda).
- 10.3 The Overview and Scrutiny Committee will, in any event, have access to the Cabinet's Decision Plan and timetable for decisions. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

## **11. Rights of Overview and Scrutiny Committee members to documents**

- 11.1 In addition to their rights as Councillors, members of the Overview and Scrutiny Committee have the additional right to documents, and to notice of meetings, as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- 11.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

## **12. Members and officers giving account**

- 12.1 The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service and/or any Chief Officer to attend before it to explain in relation to matters within its remit:-

- (a) Any particular decision or series of decisions;
- (b) The extent to which the actions taken implement Council policy; and/or
- (c) Their performance.

and it is the duty of those persons to attend, or send an appropriate substitute, if so required.

- 12.2 Where any Member or Officer is required to attend the Overview and Scrutiny Committee under this provision, the Chair of the Committee will inform the Scrutiny Officer. The Scrutiny Officer shall inform the Member or Officer in writing, giving at least five working days notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 13.3 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall, in consultation with the Member or Officer, arrange an alternative date for attendance to take place within a maximum of 10 working days from the date of the original request.

### **13. Attendance by others**

13.1 The Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 12.1 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and shall invite such people to attend. Attendance is of course entirely optional.

### **14. Call-in**

14.1 A key element of the scrutiny role of the Committee concerns the arrangements for the "call-in" of a decision taken by or on behalf of the Cabinet. A decision by the Cabinet, or a Key Decision made by an Officer or Portfolio Holder with delegated authority, may be "called-in" by Members of the Council submitting a request in writing on the Call-in Request Form to the Director (HR, Governance and Regulatory) within five working days of the publication of that decision. No action can be taken on an item called in for scrutiny.

14.2 Call-in should only be used in exceptional circumstances. These are where Members have evidence which suggests that the decision was not taken in accordance with the principles set out in Article 11 (Decision Making). In order to ensure that call-in is not abused; nor causes unreasonable delay, certain limitations are to be placed on its use. These are:-

- (a) A decision must be called-in by at least five Members of the Council; and
- (b) A decision on the same item may only be "called-in" for scrutiny by the Committee on one occasion within a six month period. The six month period is to commence from the date the "call-in" request is received by the Director (HR, Governance and Regulatory).
- (c) Members who have called-in a decision may withdraw their call-in at any time prior to the meeting taking place to hear the call-in, by giving notice in writing to the Scrutiny Officer.
- (d) A decision should not be called-in where it was considered by the Overview and Scrutiny Committee prior to the decision being made, unless it can be reasonably demonstrated that the Cabinet decision was flawed.

14.3 The following arrangements for the call-in of decisions made by the Cabinet will apply:-

- (a) When a decision is made by the Cabinet (or by any Members of the Cabinet with a delegated authority contained in Part 3 of this Constitution) or a Key Decision is made by an Officer

or Portfolio Holder with delegated authority, the decision shall be published electronically. Normally, such publication will be on the Thursday of the week in which the decision was taken. Notification of all such decisions will also be issued to all Members within the same timescale by the person responsible for publishing the decision.

- (b) The relevant notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless it is called in.
- (c) During that period, the Scrutiny Officer shall call-in a decision for scrutiny by the Committee if so requested by Members (in accordance with paragraph 14.1 above) and shall notify the decision-taker of the call-in. An item called in for scrutiny will normally be considered by the Overview and Scrutiny Committee at its next scheduled meeting. However, in consultation with the Chair of the Committee, they may call an extraordinary meeting of the Committee on such date as they may determine (in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution).
- (d) Any Member considering calling in a Cabinet decision, or a Key Decision taken by an Officer or Portfolio Holder under delegated authority, first be required to make every effort to discuss the issue with the relevant Portfolio Holder or Leader of the Council.
- (e) Members using the call-in arrangements have the right to address the Committee when it deals with the issue.
- (f) Normally, the Committee will complete its scrutiny of the issue at that meeting and report the outcome to the next meeting of the Cabinet. However, the Committee may consider that further time is required to consider the issue and would, therefore, need to recommend to the Cabinet that further work be carried out and that the Overview and Scrutiny Committee makes recommendations at a later date. In these circumstances, the Cabinet will decide whether or not the decision should be implemented, having regard to the urgency, if any, of the matter and the provisions of the Budget and Policy Framework Rules (see (i) below);
- (g) If the Overview and Scrutiny Committee agrees with a called-in decision, the decision may be implemented immediately following the Overview and Scrutiny Committee meeting.
- (h) If the Committee makes an alternative recommendation, this will be considered by the Cabinet at its next meeting and no action should be taken until a final decision has been made by the Cabinet (or the Council – see (i) below); and

- (i) As set out in the Budget and Policy Framework Procedure Rules, called-in decisions which are deemed to be contrary to the policy framework, or contrary to or not wholly consistent with the budget, may have to be referred to the Council for a final decision.

#### **14.4 Call-in and urgency**

- 14.4 The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would ***seriously prejudice the Council's or the public's interest***. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair of the Overview and Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair, the Vice Chair of the Overview and Scrutiny Committee's consent shall be required. In the absence of both, the Head of Paid Service or their nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

#### **15. Councillor call for action**

- 15.1 Any Councillor may request that the Committee consider the inclusion of a Councillor Call for Action (CCfA) on its work programme, under the terms of a CCfA Protocol to be agreed by the Overview and Scrutiny Committee. This should only be in exceptional circumstances where all other possible avenues for resolution of the issue have been followed by the referring Councillor, and yet a problem still exists.

#### **16. The party whip**

- 16.1 For the purpose of this section, reference to "the party whip" shall mean:-

*"Any instruction given by or on behalf of a political Group to any Councillor who is a Member of that Group as to how that Councillor shall speak or vote on any matter before the Council or any Committee or Sub-Committee, or the application or threat to apply any sanction by the Group in respect of that Councillor should they speak or vote in any particular manner."*

- 16.2 The imposition of the party whip is regarded by the Council as incompatible with Overview and Scrutiny. The party whip should not therefore be imposed on any member of the Overview and Scrutiny Committee while engaged in the work of Overview and Scrutiny.

## **17. Business at Overview and Scrutiny Committee meetings**

17.1 The Overview and Scrutiny Committee shall consider the following business:-

- (a) Minutes of the last meeting.
- (b) Declarations of Interest.
- (c) Public speaking in accordance with the Committee Procedure Rules.
- (d) Consideration of any matter referred to the Committee for a decision in relation to call-in of a decision.
- (e) Responses of the Cabinet to reports of the Overview and Scrutiny Committee.
- (f) Any recommendations or reports from the Committee's Panels or Task and Finish Groups.
- (g) Consideration of the Decisions Plan; and
- (h) The business otherwise set out on the agenda for the meeting.

17.2 Where the Overview and Scrutiny Committee conducts investigations, the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:-

- (a) That the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak.
- (b) That those assisting the Committee by giving evidence be treated with respect and courtesy; and
- (c) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

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



## **B. PERFORMANCE AND AUDIT SCRUTINY COMMITTEE**

### **1. What will be the arrangements for the Performance and Audit Scrutiny Committee?**

- 1.1 The Council will have a Performance and Audit Scrutiny Committee as set out in Article 7 and will appoint to it annually, unless Council cancels, defers or delays the Annual Meeting, in which case, the Members and the Chair and the Vice-Chair, shall remain in post until a successor is appointed.
- 1.2 The Committee will consist of a maximum of 10 Members of the Council and two non-voting co-opted non-elected independent members. The Council will normally observe the rules governing political balance contained in Section 15 of the Local Government and Housing Act 1989 when allocating seats to the Performance and Audit Scrutiny Committee but it may resolve to vary this provision if no Member votes against it.
- 1.3 The two non-voting co-opted non-elected independent members will be appointed for a term of four years and may serve for a maximum of two terms.
- 1.4 The terms of reference of the Performance and Audit Scrutiny Committee will be:-
  - (i) To monitor and scrutinise the performance of the Council's services by having regard to a variety of information, including performance indicators, financial information, reports from external inspections, audit reports and monitoring of action plans.
  - (ii) To suggest means of improving and promoting the performance management and audit functions of the Council.
  - (iii) The Committee will also assist the Council and the Cabinet in the development of the budget framework and act as the Council's Audit Committee and will have reference to any or all of the following areas:-
    - (a) Integration of the Audit role**  
To ensure that the principles of effective audit are integrated into the work of the Performance and Audit Scrutiny Committee and the Council generally.
    - (b) Risk Management**  
To provide assurance of the effectiveness of the corporate risk assessment process and monitor the effective development and operation of risk management policies in the Council, specifically including monitoring of the Risk Management Strategy and the Corporate Risk Register.

**(c) Internal Audit and Governance**

To provide an effective mechanism to monitor the control environment within the authority, ensuring the highest standards of probity and public accountability by:-

- (1) Reviewing and approving of the Annual Audit Plan.
- (2) Challenging and follow-up of internal audit recommendations.
- (3) Reviewing internal audit performance;
- (4) Reviewing of Code of Corporate Governance and Statement of Internal Control; and
- (5) Reviewing the anti-fraud and corruption controls and arrangements.

**(d) Financial Statements and Annual Accounts**

To provide scrutiny of the authority's financial performance by scrutinising the:-

- (1) Budget Monitoring Reports.
- (2) Capital Programme Audited Accounts; and
- (3) Any proposals for cost reductions or growth in the forward budget.

**(e) Financial Resilience and Treasury Management**

A Financial Resilience Sub-Committee will undertake the enhanced monitoring and scrutiny requirements of the revised Chartered Institute of Public Finance and Accountancy and will be responsible to the Committee for:-

- (1) The Council's responses to changes in statutory and regulatory requirements and guidance.
- (2) The Annual Treasury Management and Investment Strategy.
- (3) On-going revisions to treasury management strategies and policies.
- (4) The mid year treasury management review.
- (5) Reports on treasury management performance; and
- (6) The annual report on treasury management performance, including the effects of the decisions taken and the transactions executed in the past year, and on the circumstances of any non-compliance with the Council's treasury management policy statements.

**(f) External Audit**

To maintain and develop a trusting and professional relationship with the Council's external auditors and

ensure any issues arising from inspection are dealt with:-

- (1) Annual audit and Inspection Plan and any resulting reports.
- (2) Annual Audit Letter; and
- (3) Statement of Auditing Standard (SAS) 610 Communications.

**(g) Procurement**

Formal reporting of procurement issues.

- (iv) To receive an annual work programme based around a quarterly performance management and risk and budget monitoring cycle; and
  - (v) To approve the Annual Statement of Accounts and Annual Governance Statement each year in good time to meet the statutory deadline for adoption.
  - (vi) To receive reports from other external inspectors related to the financial and non-financial performance of the Council and ensure appropriate action is taken in response to recommendations. This shall include adverse findings of the Local Government Ombudsman which do not amount to a wider maladministration on the part of the Council.
  - (vii) To provide an effective mechanism to monitor the governance and scrutiny of health and safety, including reviewing the health and safety Key Performance Indicators (KPIs) on a quarterly basis. The Portfolio Holder for Governance and Regulatory to also present an annual report to the Committee covering a review of performance across the year and the wider development of health and safety across the organisation.
- 1.5 It is not within the terms of reference of this Committee to carry out in-depth service reviews, although the Committee may from time-to-time carry out initial investigation into or scoping of an issue, which may lead to recommendations for further work by the Overview and Scrutiny Committee or Cabinet and may also serve to assist the Overview and Scrutiny Committee in its own detailed examinations or Task and Finish Group work.

**2. Who may sit on the Performance and Audit Scrutiny Committee?**

- 2.1 All Councillors, except members of the Cabinet and full Members of the Overview and Scrutiny Committee, may be Members of the Performance and Audit Scrutiny Committee.

### **3. Co-optees**

- 3.1 The Performance and Audit Scrutiny Committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

### **4. Meetings of the Performance and Audit Scrutiny Committee**

- 4.1 There will be up to six ordinary meetings of the Committee each year, comprising four quarterly meetings based around a programme of performance management and risk and budget monitoring, and, as required, a meeting to approve the annual accounts, and a further meeting to scrutinise proposals for cost reductions and growth in the forward budget.
- 4.2 Meetings shall be held in accordance with the Committee Procedure Rules as set out in Part 3 of this Constitution, except where these Scrutiny Committees Procedure Rules specify otherwise.

### **5. Who chairs Performance and Audit Scrutiny Committee meetings?**

- 5.1 Following discussions between Group Leaders, the Chair and Vice-Chair of the Performance and Audit Scrutiny Committee will be appointed by the Council.
- 5.2 The Chair and Vice-Chair will hold office until:-
- (a) They resign from the office of Chair or Vice-Chair; or
  - (b) They are no longer a Councillor; or
  - (c) The next Annual Meeting of the Council save that the Council may remove the Chair or Vice-Chair at an earlier date but only in the event of a change in the political control of the Council.
- 5.3 Upon the occurrence of a vacancy in the office of Chair or Vice-Chair, the Council shall fill the vacancy at the next ordinary meeting of the Council or, if the vacancy occurs as a result of the removal of the Chair and/or Vice-Chair in the event of a change in the political control of the Council, at the meeting at which that resolution was passed. The person appointed to fill the vacancy shall hold office for the remainder of the original term, subject to the rules on earlier termination in paragraph 5.2 above.

### **6. Work programme**

- 6.1 The Committee will receive a rolling work programme based around a quarterly performance management and risk and budget monitoring cycle.

## **7. Agenda items**

- 7.1 Any Member of the Performance and Audit Scrutiny Committee shall be entitled to give notice to the Scrutiny Officer that they wish an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Scrutiny Officer will ensure that it is included on the next available agenda. If the item is accepted by the Committee, the extent to which such an item is investigated by the Committee shall be only to the level of initial scoping, in order to ascertain whether further investigation of an issue by the appropriate Scrutiny Committee should be recommended.
- 7.2 Any five members of the Council who are not members of the Performance and Audit Scrutiny Committee may also give written notice to the Scrutiny Officer that they wish an item to be included on the agenda of the Committee. If the Scrutiny Officer receives such a notification, then they will include the item on the first available agenda of the Committee for consideration by the Committee. If the item is accepted by the Committee, the extent to which such an item is investigated by the Committee shall be only to the level of initial scoping, in order to ascertain whether further investigation of an issue by the appropriate Scrutiny Committee should be recommended.
- 7.3 The Performance and Audit Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council, the Cabinet and the Overview and Scrutiny Committee to carry out such initial scoping investigations. Where it does so, the Performance and Audit Scrutiny Committee shall report its findings and any recommendations back to the Overview and Scrutiny Committee, Cabinet and/or Council. The Overview and Scrutiny Committee, Council and/or the Cabinet shall consider the report of the Performance and Audit Scrutiny Committee at its next meeting.

## **8. Performance management and audit**

- 8.1 The role of the Performance and Audit Scrutiny Committee in relation to its performance management and audit responsibilities is as set out in paragraphs 1.3 to 1.4 above and Article 7 of this Constitution.

## **9. Reports from the Performance and Audit Scrutiny Committee**

- 9.1 Once it has formed any recommendations, the Performance and Audit Scrutiny Committee will submit them to the Scrutiny Officer for consideration by the Overview and Scrutiny Committee, Cabinet and/or Council as appropriate.
- 9.2 The Overview and Scrutiny Committee, Council or Cabinet shall consider the recommendations of the Performance and Audit Scrutiny Committee at the next available meeting.

- 9.3 The agenda for Cabinet meetings shall, when applicable, include an item entitled '*Issues arising from the Performance and Audit Scrutiny Committee*'. Any reports of the Committee referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda).
- 9.4 The Chair, or in their absence, the Vice-Chair of the Overview and Scrutiny Committee will normally be responsible for presenting the report to the Cabinet or the Council as appropriate. However, in the case of the report of a Panel or Working Group, the report to the Cabinet and/or Council can also be made by the Chair or Vice-Chair of the Panel/Working Group.

## **10. Attendance by others**

- 10.1 Members of the Cabinet will be entitled to attend meetings of the Performance and Audit Scrutiny Committee and speak on any matter under consideration.
- 10.2 Subject to the provisions of paragraph 1.4 above, the Committee may also invite Members, Officers and any other person to address its meetings, discuss issues of local concern and/or answer questions as part of its initial scoping or investigation of a matter. Attendance is of course entirely optional.

## **11. The party whip**

- 11.1 For the purpose of this section, reference to "the party whip" shall mean:-

*"Any instruction given by or on behalf of a political Group to any Councillor who is a Member of that Group as to how that Councillor shall speak or vote on any matter before the Council or any Committee or Sub-Committee, or the application or threat to apply any sanction by the Group in respect of that Councillor should they speak or vote in any particular manner."*

- 11.2 The imposition of the party whip is regarded by the Council as incompatible with Performance and Audit Scrutiny. The party whip should not, therefore, be imposed on any Member of the Performance and Audit Scrutiny Committee while engaged in the Committee's work.

## **12. Procedure at Performance and Audit Scrutiny Committee meetings**

- 12.1 The Performance and Audit Scrutiny Committee shall consider the following business:
- (a) Minutes of the last meeting.
  - (b) Declarations of Interest.

- (c) Public speaking in accordance with the Committee Procedure Rules.
- (d) Any decisions or reports of the Cabinet regarding the Committee's work.
- (e) Any previous recommendations or reports of the Committee referred back to the Committee by the Overview and Scrutiny Committee, Cabinet or Council; and
- (f) The business otherwise set out on the agenda for the meeting.

12.2 The Committee may also ask people to attend its meetings, which are to be conducted in accordance with the following principles:-

- (a) That all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak.
- (b) That those assisting the Committee by giving evidence or offering opinions be treated with respect and courtesy; and
- (c) That the meeting be conducted so as to maximise the efficiency of the discussion, investigation or analysis.

12.3 Following scrutiny of any matter, the Committee shall prepare, if necessary, recommendations for submission to the Overview and Scrutiny Committee, Cabinet and/or Council as appropriate, and shall make its recommendations and any accompanying findings public.

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## West Suffolk Council

### Access to Information Procedure Rules

#### 1. Scope

- 1.1 These rules apply to all meetings of the Council, Overview and Scrutiny Committee, Performance and Audit Scrutiny Committee, Standards Committee, Regulatory Committees and public meetings of the Cabinet (together called Meetings).

#### 2. Additional rights to information

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

#### 3. Rights to attend meetings

##### Public

- 3.1 Members of the public may attend all meetings unless excluded in accordance with Rules 11.1 and 11.2(a) below.
- 3.2 In addition to decision making meetings that are held in the Council Offices, the Council or its Committees may elect to hold informal discussions as the Council or Committee (through its Chair) elects. Such meetings may be held in a specified place or online, operating to procedures as are agreed by the relevant Chair and communicated to the Committee and may, or may not, be open to the public depending on the nature of discussions. Such discussions can provide the opportunity for other Councillors, the public and stakeholders to contribute to the Council's decision making.

##### Members

- 3.3 A member of the Council may attend a meeting of a Committee or Sub-Committee of which they are not a member. A Member may speak at that meeting if allowed to do so by the Committee Procedure Rules but shall not be entitled to vote.

#### 4. Notices of meeting

- 4.1 Unless a meeting is convened at shorter notice, the Council will give at least five clear days' notice of any meeting by putting details on its website and on lists displayed at its main Offices.
- 4.2 If a meeting is convened at shorter notice, then the time and place of the meeting shall be displayed at the Council's main Offices and on its website as soon as the meeting is convened.

## **5. Access to agenda and reports before the meeting**

- 5.1 The Council will make copies of the agenda and reports open to the public available for inspection by publishing them on its website at least five clear days before the meeting, unless the meeting is convened at shorter notice, in which case the agenda and reports shall be available as soon as the meeting is convened.
- 5.2 If an item is added to an agenda after the meeting has been convened or notice published, the revised agenda will be available on its website from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Council shall make each such report available to the public on its website as soon as the report is completed and sent to Councillors.

## **6. Supply of copies**

- 6.1 The Council will supply copies of the following documents to any person on request and may make a charge for unreasonable postage and any other costs:-
- (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 Proper Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item.

## **7. Access to minutes etc. after the meeting**

- 7.1 The Council will as soon as practicable after a meeting make the following available on its website for six years:-
- (a) The minutes of the meeting or records of decisions taken, together with reasons, for all meetings specified in 1.1 above, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
  - (b) A summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
  - (c) The agenda for the meeting; and
  - (d) Reports relating to items when the meeting was open to the public.

## **8. Recording of council meetings and use of social media**

- 8.1 People may photograph, film, record and/or broadcast those attending Council, Cabinet, Committee or Sub-Committee meetings (other than any part of such a meeting from which the public are excluded), subject to:-

- (a) The Committee Administrator at the meeting being told so that everyone attending can be notified; and
- (b) The filming or recording must not be disruptive to the effective conduct of the meeting (for example, they should not use noisy equipment or excessive flash lighting), without prior agreement of the chairman;
- (c) Fixed points or areas for cameras or recording equipment being agreed in advance so they do not distract those involved in the democratic process or impinge on the decision-making or block viewing from the public seating area; and
- (d) Members of the public speaking at, or attending, the meeting must not be filmed if they have indicated they do not wish to be included.

8.2 Notice of the photographing, filming, recording and/or broadcasting of meetings is to be displayed in and outside the place of meeting and included on any literature handed to persons attending a meeting as follows:-

*"The Council may record this meeting and permits members of the public and media to record or broadcast it as well (when the media and public are not lawfully excluded)".*

*Any member of the public who attends a meeting and objects to being filmed should advise the Committee Administrator who will instruct that they are not included in the filming."*

8.3 People may use social media at Council, Cabinet, Committee or Sub-Committee meetings (other than any part of such a meeting from which the public are excluded), subject to:-

- (a) Equipment used being silent during operation.
- (b) The use of equipment not distracting those involved in the democratic process or impinging on decision making or blocking the view from the public seating area.
- (c) Councillors who elect to use social media during Council meetings should ensure they remain focussed on the debate, do not compromise decision making and do not distract others in using social media

## **9. Background papers**

### **9.1 List of background papers**

The report's author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:-

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

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

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

## 9.2 **Public inspection of background papers**

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

## 10. **Summary of public's rights**

- 10.1 These Rules will constitute the written summary of the public's rights to attend meetings and to inspect and copy documents and will be available to the public on the Council's website.

## 11. **Exclusion of the public from meetings**

### 11.1 **Confidential information – Requirement to exclude public**

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

### 11.2 **Exempt information – Discretion to exclude public**

- (a) The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.
- (b) Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### 11.3 **Meaning of confidential information**

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

### 11.4 **Meaning of exempt information**

- 11.4.1 Exempt information means information falling within the following seven categories (subject to any condition):-
- (1) Information relating to any individual.

- (2) Information which is likely to reveal the identity of an individual.
- (3) Information relating to the financial or business affairs of any particular person (including the authority holding that information).
- (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.
- (5) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- (6) Information which reveals that the authority proposes:-
  - (a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) To make an order or direction under any enactment.
- (7) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

11.4.2 Information falling within paragraph 11.4.1 above is not exempt information by virtue of that paragraph if it is required to be registered under:-

- (a) The Companies Act 1985.
- (b) The Friendly Societies Act 1974.
- (c) The Friendly Societies Act 1992.
- (d) The Industrial and Provident Societies Acts 1965 to 1978.
- (e) The Building Societies Act 1986; or
- (f) The Charities Act 1993.

11.4.3 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.

11.4.4 Information which:-

- (a) Falls within any of paragraphs (1) to (7) above; and
- (b) Is not prevented from being exempt by virtue of paragraph 11.4.2 or 11.4.3 above

is exempt information if and so long as, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11.4.5 The public shall be ordinarily taken to mean people who are not Members or Officers of the Council. However, the Council, Cabinet or Committee may elect to admit any other parties they consider are necessary to the effective conduct of the meeting when exempt information is being considered.

## **12. Exclusion of access by the public to reports**

12.1 If the Monitoring Officer thinks fit, the Council may exclude access by the public or Members to reports which in the Monitoring Officer's opinion relate to items during which, in accordance with Rule 11 above, the meeting is likely not to be open to the public or should not be disclosed further. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

## **13. Application of rules to the Cabinet**

13.1 Rules 14-23 apply to the Cabinet and its Committees. If the Cabinet or its Committees meet to take a Key Decision then it must also comply with Rules 1-13 unless Rule 16 (General Exception) or Rule 17 (Special Urgency) apply. A Key Decision is as defined in Article 11 of this Constitution.

13.2 If the Cabinet or its Committees meet to discuss a Key Decision to be taken collectively, with an Officer other than a political assistant present, within 28 days of the date according to the Decisions Plan by which it is to be decided, then it must also comply with Rules 1-12 unless Rule 16 (General exception) or Rule 17 (Special urgency) apply. A Key Decision is as defined in Article 11 of this Constitution. This requirement does not include meetings whose sole purpose is for Officers to brief Members.

## **14. Procedure before taking key decisions or holding executive meetings in private**

### **14.1 Key decisions**

14.1.1 Subject to Rule 16 (General exception) and Rule 17 (Special urgency), a Key Decision may not be taken unless:-

- (a) A notice (called here a Decisions Plan) has been published in connection with the matter in question, at least 28 clear days before the decision is to be taken; and
- (b) Where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4 (Notices of Meeting).

### **14.2 Matters to be considered in private**

14.2.1 At least 28 clear days before a private meeting of the Cabinet, or a Committee or Joint Committee of the Cabinet, the decision-making body must make available and publish on its website a notice including a statement of the reasons

for the meeting, or part of the meeting, to be held in private.

- 14.2.2 At least five clear days before a private meeting, the decision-making body must make available and publish on its website an additional notice of its intention to hold a meeting or part of a meeting in private, including a statement of the reasons for the meeting to be held in private, details of any representations received by the decision-making body about why the meeting should be open to the public, and a statement of its response to any such representations. For ease of reference this notice will be incorporated into the agenda for the meeting in question.

## **15. The decisions plan**

### **15.1 Publication of decisions plan**

- 15.1.1 Decisions Plans will be prepared on behalf of the Leader to ensure that 28 clear days' notice of the taking of any Key Decision, or the holding of any meeting, or part of a meeting, in private, is given. This document will be made available for inspection at the Council's Offices and on its website.

### **15.2 Contents of decisions plan**

- 15.2.1 The Decisions Plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a Committee of the Cabinet, individual Members of the Cabinet, Officers 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 particulars in so far as the information is available or might reasonably be obtained:-

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

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

15.2.2 The Decisions Plan will also detail any matters which it is intended will be considered in private, and the reason for the matter being considered in private.

15.2.3 Exempt information need not be included in a Decisions Plan and confidential information cannot be included.

## **16. General exception**

16.1 If a matter which is likely to be a key decision has not been publicised with 28 clear days' notice then subject to Rule 17 (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; and
- (b) The Proper Officer has informed the Chair of the Overview and Scrutiny Committee, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made; and
- (c) The Proper Officer has made copies of that notice available to the public at the Council's Offices and on its website; and
- (d) At least five clear days have elapsed following the day on which the Proper Officer made the notice available.

16.2 Where such a decision is taken collectively, it must be taken in public, unless it relates to exempt information as determined under Section 100 of the Local Government Act 1972, when the public will be excluded.

## **17. Special urgency**

### **17.1 Key decisions**

17.1.1 If by virtue of the date by which a decision must be taken Rule 16 (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 the Chair of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chair of the Overview and Scrutiny Committee, or if the Chair of the Overview and Scrutiny Committee is unable to act, then the agreement of the Vice-Chair will suffice.

### **17.2 Matters to be considered in private**

17.2.1 Where the date by which a meeting must be held makes publication within 28 clear days impracticable, the meeting may only be held in private where agreement has been



obtained from the Chair of the Overview and Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred. If there is no Chair, or if the Chair is unable to act, then the agreement of the Vice-Chair will suffice.

17.3 In the case of both Key Decisions and matters to be considered in private, as soon as practicable after the decision-maker has obtained such agreement, the decision-maker will make available at the Council's Offices and on its website, a notice setting out the reasons why the decision or matter is urgent and cannot reasonably be deferred.

## **18. Report to Council**

### **18.1 When an Overview and Scrutiny Committee can require a report**

18.1.1 If the Overview and Scrutiny Committee thinks that a Key Decision has been taken which was not:-

- (a) Treated as being a key decision; or
- (b) The subject of the general exception procedure; or
- (c) The subject of an agreement with the Overview and Scrutiny Committee Chair, or the Vice-Chair, under Rule 17.

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies.

18.1.2 The report will include:-

- (a) The decision and the reasons for the decision;
- (b) The decision making body by which, or the individual by whom, the decision was made; and
- (c) The reasons as to why the decision was considered not to be a key decision.

18.1.3 The power to require a report rests with the Overview and Scrutiny Committee but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by the Chair or any five Members. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

### **18.2 Cabinet's report to Council**

18.2.1 The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the

written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that.

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

### **18.3 Quarterly reports on special urgency decisions**

18.3.1 The Leader will submit quarterly reports to the Council on the Executive decisions taken (if any) in the circumstances set out in Rule 17 (Special urgency) in the preceding three months.

18.3.2 The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken together with the reasons for the decision and why the matter was considered to be urgent.

## **19. Record of decisions**

19.1 After any meeting of the Cabinet or any of its Committees, whether held in public or private, the Proper Officer or their nominee will produce a record of every decision taken at that meeting as soon as practicable.

19.2 The record will include:-

- (a) A record of the decision including the date it was made;
- (b) A record of the reasons for the decision;
- (c) Details of any alternative options considered and rejected by the decision making body at the meeting at which the decision was made;
- (d) A record of any conflict of interest in relation to the matter decided which is declared by any member of the decision making body which made the decision; and
- (e) In respect of any declared conflict of interest, a note of any dispensation granted by the Council's Head of Paid Service.

## **20. Executive meetings relating to matters which are not key decisions**

20.1 The Cabinet will meet in public to consider matters which are not Key Decisions, unless confidential or exempt information is being discussed.

## **21. Officers**

21.1 The Head of the Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its Committees. The Cabinet may not

meet unless the Chief Executive has been given reasonable notice that a meeting is to take place.

- 21.2 A Cabinet meeting may only take place in the presence of the Chief Executive or their nominee with responsibility for recording and publicising the decisions and the provisions of Rule 19 will apply.

## **22. Decisions by individuals**

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

- (a) Where a Cabinet Member or Officer receives a report, which will be taken into consideration when a Key Decision is made, they shall not make that decision until the report has been available for public inspection for at least five clear days.
- (b) The Cabinet Member or Officer making the decision shall ensure that Democratic Services make the report available for inspection by the public as soon as is reasonably practicable after that officer or member receives it.
- (c) The Officer who prepares the report shall, in any report to be available for inspection by the public, include a list of background papers for the report or part of the report, and shall ensure that the background papers are available on the Council's website.

### **22.2 Provision of reports to the Overview and Scrutiny Committee**

- 22.2.1 Where a report has been submitted to a Cabinet Member or Officer with a view to it being considered when a Key Decision is made, the person who submitted the report shall, as soon as is reasonably practicable, ensure that it is available electronically to the Chair of the Overview and Scrutiny Committee or, where there is no Chair, to every Member of the Overview and Scrutiny Committee.

### **22.3 Record of individual decision**

- 22.3.1 As soon as reasonably practicable after an executive decision has been taken by an individual Member of the Cabinet, or after an Officer has taken a decision closely associated with the discharge of an executive function, they will prepare, or instruct the Proper Officer to prepare, a record of the decision which must include:-

- (a) A record of the decision including the date it was made.
- (b) A record of the reasons for the decision.
- (c) Details of any alternative options considered and rejected at the time when the decision was made.
- (d) A record of any conflict of interest declared by any Cabinet Member who is consulted in relation to the decision; and

- (e) In respect of any declared conflict of interest a note of any dispensation granted by the Council's Head of Paid Service.

22.3.2 The provisions of Rules 7 and 9 above (relating to the inspection of documents after meetings) will also apply to the making of decisions by individual Members of the Cabinet. This does not require the disclosure of exempt or confidential information.

## **23. Overview and Scrutiny Committee members' access to documents**

### **23.1 Rights to copies**

Subject to Rule 23.2 below, a Member of an Overview and Scrutiny Committee will be entitled, no later than 10 clear days after the Cabinet receives the request, to copies of any document which is in the possession or control of the Cabinet and which contains material relating to:-

- (a) Any business transacted at a public or private meeting of the Cabinet or its Committees; or
- (b) Any decision taken by an individual Member of the Cabinet; or
- (c) Any decision that has been made by an Officer of the authority which is closely associated with the discharge of an executive function.

### **23.2 Limit on rights**

A Member of an Overview and Scrutiny Committee will not be entitled to:-

- (a) Any document that is in draft form.
- (b) Any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or any review contained in any programme of work of such a Committee or Sub-Committee of such a Committee; or
- (c) Any document or part of a document containing the advice of a political adviser or assistant.

23.3 Where the Cabinet determines that a Member of the 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 paragraphs 23.1 or 23.2 above, it must provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

## **24. Additional rights of access for members**

### **24.1 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 Cabinet or its Committees, and contains material relating to any business previously transacted at a private meeting unless it contains:-

- (a) Exempt information falling within paragraphs (1), (2), (3) (to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract), (4), (5) and (7) of the categories of exempt information; or
- (b) The advice of a political adviser.

### **24.2 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 Cabinet or its Committees which relates to any Key Decision unless paragraph (a) and/or (b) in 24.1 above applies.

### **24.3 Nature of rights**

These rights of a Member are additional to any other rights they may have.

## **25. Confidentiality**

- 25.1 No member of the Council, nor any co-opted Member of any Committee, Sub-Committee, Panel or Working Group, shall without the permission of the Council or (in respect of Cabinet functions) the Cabinet, or (in respect of their functions) of the appropriate Committee, Sub-Committee, Panel or Working Group, disclose any exempt or confidential matter unless and to the extent only that that matter shall have been placed in the public domain by the Council, Cabinet, Committee, Sub-Committee, Panel or Working Group (as the case may be).

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## West Suffolk Council

### Officer Employment Procedure Rules

*All procedures in this Section shall be subject to the provisions of the Local Authorities (Standing Orders) (England) Regulations 2015 or any legislation that amends or replaces them, and all other relevant Regulations.*

#### **1. Recruitment and appointment**

##### **1.1 Declarations**

- (a) The Council will require any candidate for appointment as an employee to state in writing whether they are related to or closely connected with an existing councillor or employee of the Council or the spouse or partner of such persons.
- (b) A candidate who does not disclose such a relationship may be disqualified from consideration, and if appointed, may be liable to dismissal.
- (c) Every Member and Officer of the Council will inform the Director concerned when they become aware of an application by a relative.
- (d) No candidate so related or connected to a Councillor or an Officer will be appointed without the authority of the Head of Paid Service or an Officer nominated by them.

##### **1.2 Seeking support for appointment**

The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

#### **2. Recruitment of chief executive and strategic directors**

For the purposes of these rules and of Article 11, the term "chief officers" shall mean the Chief Executive and the Strategic Directors.

Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:-

- (a) Draw up a statement specifying:-
  - (i) The duties of the Officer concerned; and
  - (ii) Any qualifications or qualities to be sought in the person to be appointed; and

- (iii) The requirement in 1.1 (a) above;
- (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.

### **3. Appointment of chief executive**

Before an offer of appointment is made, the Council will approve the appointment of the Chief Executive following the recommendation of such an appointment by a Committee of the Council specifically appointed for that purpose. That Committee must include at least one Member of the Cabinet.

### **4. Appointment of chief officers**

- (a) The Officer Appointments Committee will appoint all Strategic Directors. For this purpose, the Council's Independent Persons do not need to be invited to the Officer Appointment Committee.
- (b) An offer of employment as a Chief Officer shall only be made where no well-founded objections from any Member of the Cabinet has been received.

### **5. Other appointments**

- (a) **Officers below Chief Officer level**  
Appointment of officers below Chief Officer level is the responsibility of the Chief Executive or their nominee and may not be made by Councillors.
- (b) **Assistants to political Groups**  
Appointment of an assistant to a political Group shall be made in accordance with the wishes of that political Group.

### **6. Disciplinary action**

Disciplinary action for the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer shall take place in accordance with Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2015. The Officer Appointments Committee shall be the "Panel" referred to in Schedule 3:

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



- (b) Councillors will not be involved in any other disciplinary action against any officer below Chief Officer level, except where such involvement is necessary for any investigation or inquiry into alleged misconduct. Such disciplinary action will be undertaken by the Head of Paid Service or an Officer nominated by them.
- (c) The Officer Appointments Committee will make recommendations to Council for the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer and Council must approve that dismissal before notice is given to that person.
- (d) The Officer Appointments Committee shall approve any disciplinary action, short of dismissal, against the Head of Paid Service, Chief Finance Officer or Monitoring Officer.
- (e) Subject to the provisions of The Local Authorities (Standing Orders) (England) Regulations 2015, all actions will be in accordance with both the JNC Conditions of Service for Chief Executives/Chief Officers and the Council's employment policies.
- (f) The Officer Appointments Committee will approve the dismissal of a Strategic Director.
- (g) Notice of the dismissal of the Chief Executive or any Strategic Director or assistant to a political group must be given to Cabinet in accordance with paragraph 6 of Part II to Schedule I of the Local Authorities (Standing Orders) (England) Regulations 2015.
- (h) Councillors will not be involved in the dismissal of any other officer below Strategic Director level, except where such involvement is necessary for any investigation or inquiry into alleged misconduct. Any dismissal procedure will be undertaken by the Head of Paid Service or by an officer nominated by them.
- (i) Strategic Directors, the Head of Paid Service, the Section 151 Officer and the Monitoring Officer have a right of appeal against dismissal to a Chief Officer Appeals Committee specifically appointed for that purpose.

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## West Suffolk Council

### Budget and Policy Framework Procedure Rules

#### 1. The framework for Cabinet decisions

- 1.1 The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once the budget and policy framework is in place, it will be the responsibility of the Cabinet to implement it.

#### 2. Process for developing the policy framework

- 2.1 Normally, in the development of the policy framework, the Cabinet will liaise with the Overview and Scrutiny Committee and the Performance and Audit Scrutiny Committee to ensure that matters can be given proper consideration as part of the work programmes of these Committees.
- 2.2 However, the formal process by which the policy framework shall be developed is as follows.

#### 2.3 Prior to Cabinet consideration

- (a) The Cabinet will publicise, by including in a Decisions Plan and/or by other methods, a timetable for making proposals to the Council for the adoption of any new or significantly revised policy or strategy that forms part of the policy framework. Where consultation on a draft policy is due to take place, the Decisions Plan will also set out the timetable for Cabinet consideration of the draft for consultation.

#### Consultation on draft policies

- (b) Where a policy is to be consulted on in draft form, the Overview and Scrutiny Committee and the Performance and Audit Scrutiny Committee may wish to investigate, research or report in detail with policy recommendations before the end of the consultation period.

#### 2.4 Preparation of final proposals by Cabinet

- (a) At the end of any consultation period, the Cabinet will approve its own final proposals for submission to the Council. These proposals will have regard to the responses to any consultation and will take into account any response or proposals from the Overview and Scrutiny Committee or the Performance and Audit Scrutiny Committee. Its report to Council will reflect the comments made by consultees and/or the Committees and the Cabinet's response.

- (b) The Council will consider the proposals of the Cabinet and may:-
- (i) Adopt them;
  - (ii) Amend them;
  - (iii) Refer them back to the Cabinet for further consideration; or
  - (iv) Substitute its own proposals in their place.

In considering the matter, the Council shall have before it the Cabinet's proposals and any report from the Overview and Scrutiny Committee or the Performance and Audit Scrutiny Committee.

- (c)
- (i) The Council's decision will be published on the Council's website and drawn to the attention of the Leader.
  - (ii) The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Cabinet's proposals without amendment); or
  - (iii) If the Cabinet's proposals are not accepted without amendment, the decision must inform the Leader of any objections which the Council has and require the Cabinet to reconsider, in the light of those objections, the proposals submitted to it.
  - (iv) The Council's decision will become effective on the expiry of five clear days after the publication of the notice of decision, unless the Leader objects to it in that period.
- (d) If the Leader objects to the decision of the Council, he shall give written notice to the Chief Executive to that effect prior to the date upon which the decision is to be effective. The written notification must either:-
- (i) Submit a revision of the proposals as amended by the Cabinet (the "revised proposals"), with the Cabinet's reasons for any amendments made to the proposals, to the Council for the Council's consideration; or
  - (ii) Inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- (e) Where such notification is received, the Chief Executive shall refer the matter to the next ordinary meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting. The Chief Executive may call an extraordinary meeting of Council if the matter is too urgent to await the next ordinary meeting.

- (f) At that Council meeting, the decision of the Council shall be reconsidered in the light of the revised proposals or the objections, which shall be available in writing for the Council.
- (g) The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Article 4 and shall be implemented immediately.
- (h) In approving the policy framework, the Council will also specify the degree of in-year changes to the policy framework which may be undertaken by the Cabinet. Any other changes to the budget and policy framework are reserved to the Council.

### **3. Process for developing the budget framework**

#### **3.1 There will be a process for financial planning:-**

- (a) The Cabinet shall prepare and adopt a timetable to accomplish these objectives that should incorporate consideration of:-
  - (i) An early assessment of assumptions that will be used in the drafting of the forthcoming budget, taking account of financial issues that may have a significant impact on the medium term financial situation of the Council.
  - (ii) An overview of the financial position in the coming financial year following publication of the settlement details of the anticipated funding from Central Government.
  - (ii) Detailed consideration of items of growth or potential disinvestments.
- (b) Prior to Cabinet consideration:-
  - (i) The Cabinet will publicise, by including in the Decisions Plan and/or by other methods, a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation. The Chairman of the Overview and Scrutiny Committee will be notified. The consultation period shall in each instance be not less than six weeks.
  - (ii) If the Committee wishes to respond to the Cabinet in that consultation process then it may do so. As the Overview and Scrutiny Committee has responsibility for fixing its own work programme, it is open to this Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period.

- (c) Preparation for the formal budget meeting:-
- (i) The Council will hold its formal budget meeting in February or March when the Cabinet will present proposals to Council.
  - (ii) The budget proposals presented by the Cabinet having taken consideration of the views of the public, staff, members of the Overview and Scrutiny Committee and other consultees.
  - (iii) All potential amendments to the budget must be assessed for their financial implications prior to the Council meeting to comply with Financial Procedures. To avoid any problems arising from this requirement, all proposed amendments to the budget will therefore be notified in advance to the Chief Executive and S151 Officer, at least five clear working days before the Council meeting.
  - (iv) At the budget meeting, the Council will decide on the budget for the forthcoming year and formally adopt this, satisfying any statutory requirements so that all income due to the Council and its preceptors can be collected.

#### **4. Decisions outside the budget and policy framework**

- (a) Subject to the provisions of Rule 6 below the Cabinet, Committees of the Cabinet, individual Members of the Cabinet and any Officers, or joint arrangements discharging Executive functions may only take decisions which are in line with the budget and policy framework.

If any of these bodies or persons wishes to make a decision which is contrary to policy, or contrary to or not wholly in accordance with the budget approved by the Council, then that decision may only be taken by the Council, subject to Rules 5 and 7 below.

- (b) If the Cabinet, Committees of the Cabinet, individual Members of the Cabinet and any Officers, or joint arrangements discharging Cabinet functions want to make such a decision, they shall take advice from the Monitoring Officer and the S151 Officer as to whether the decision they want to make would be contrary to policy, or contrary to or not wholly in accordance with the budget.
- (c) If the advice of either of those Officers is that the decision would not be in line with the existing budget and policy framework, then the decision must be referred to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 5 below (Urgent decisions outside the budget and policy framework) shall apply.

## **5. Urgent decisions outside the budget and policy framework**

(a) The Cabinet, a Committee of the Cabinet, an individual member of the Cabinet or Officers, or joint arrangements discharging Cabinet functions may take a decision which is contrary to policy or contrary to or not wholly in accordance with the budget if the decision is a matter of urgency. However, the decision may only be taken if:-

(i) It is not practical to convene a quorate meeting of the Council;

*and*

(ii) The Chair of the Overview and Scrutiny Committee agrees in writing that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of the Council and the Chair of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision.

In the absence of the Chair of the Overview and Scrutiny Committee the consent of the Vice-Chair will be sufficient.

*and*

(iii) The Council's Financial Procedure Rules are complied with in all other respects.

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

## **6. Virement**

(a) The Council shall have sufficient budget heads to enable service delivery and effective budgetary control in line with the Council's budget and policy framework.

(b) The Chief Executive, Strategic Directors, Directors and other Officers they authorise are entitled to vire budgets between individual budget heads within the limits of authority provided to them.

## **7. In-year changes to budget and policy framework**

7.1 The responsibility for agreeing the budget and policy framework lies with the Council and, decisions by the Cabinet, a Committee of the Cabinet an individual member of the Cabinet or Officers, or joint arrangements discharging Executive functions must (subject to Rule 5 above) be in line with that framework. No changes to the overall budget and policy framework may be made by those bodies or individuals except those changes:-

- (a) Which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint.
- (b) Which are necessary to implement a budget decision made by the Council.
- (c) Necessary to ensure compliance with the law, ministerial direction or government guidance where there is no discretion how to act.
- (d) In respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

## **8. Call-in of decisions outside the budget and policy framework**

- (a) Where the Overview and Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to policy, or contrary to or not wholly in accordance with the budget, then it shall seek advice the Monitoring Officer and/or S151 Officer.
- (b) The Monitoring Officer's report and/or S151 Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer/S151 Officer's report. The Cabinet must prepare a report to:-
  - (i) The Council if the Monitoring Officer or the S151 Officer conclude that the decision was a departure; and
  - (ii) The Overview and Scrutiny Committee if the Monitoring Officer or the S151 Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the S151 Officer is that the decision is or would be contrary to policy or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to the Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The matter will be referred to the next ordinary meeting of the Council except in cases of urgency when an extraordinary meeting will be called. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the S151 Officer. The Council may either:-
  - (i) Endorse a decision or proposal of the Cabinet decision maker as falling within the existing budget and policy



framework. In this case no further action is required;  
*or*

- (ii) Amend the Council's Financial Procedure Rules or policy concerned and agree to the decision with immediate effect; *or*
- (iii) Here the Council accepts the decision or proposal is contrary to policy or contrary to or not wholly in accordance with the budget and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/S151 Officer.

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## West Suffolk Council

### West Suffolk Financial Procedure Rules

#### 1. Introduction

- 1.1 These Financial Procedure Rules (FPRs) have been issued in accordance with Section 151 of the Local Government Act 1972, the Accounts and Audit (England) Regulations Act 2011, the provisions of Section 114 of the Local Government Finance Act 1988 and Sections 4 and 5 of the Local Government and Housing Act 1989.
- 1.2 The FPRs have been adopted by the West Suffolk Council (the Council) to provide a framework of control, responsibility and accountability for the administration of the Council's financial affairs. The FPRs are, in many of the areas detailed below, supported by more detailed guidance and procedures which set out how they will be implemented.
- 1.3 The FPRs are intended to clarify the powers and duties to be exercised with regard to the principles of good financial management. All employees must comply with the FPRs. Officers must ensure that any Agents, Consultants and contractual partners acting on the Council's behalf also comply. Any queries regarding the interpretation of the FPRs should be directed to the Section 151 Officer.
- 1.4 For the purposes of these FPRs there is a requirement for all communication to be in writing except where otherwise specified. This shall be deemed to include electronic communication.
- 1.5 Where inconsistencies may appear to arise the order of precedence shall be:
  - (i) Legislation
  - (ii) Other Rules of Procedure in Part 4 of this Constitution
  - (iii) Scheme for the Responsibility for Functions (Part 3 of this Constitution)
  - (iv) Financial Procedure Rules.

#### 2. General Financial Management

##### Section 151 Officer

- 2.1 The Section 151 Officer is responsible for administering the financial affairs of the Council and for establishing proper systems of internal control to ensure that:
  - The policies of the Council and statutory requirements are adhered to;

- The business of the Council is carried out in an orderly, efficient and effective manner;
  - The Council's records are complete and accurate;
  - Financial information and reporting is timely and accurate; and
  - The assets of the Council are safeguarded.
- 2.2 The Section 151 Officer shall make and control arrangements for the payment of the Council's creditors and for the collection, custody and accounting of all monies received by the Council.
- 2.3 The Section 151 Officer shall establish an adequate and effective internal audit of the Council's accounting records and system(s) of internal control.
- 2.4 The Section 151 Officer shall have access to all records, cash or other Council property as required for audit purposes. If required the Section 151 Officer may also request access to such information and explanations from any Officer or Member as may be necessary for audit purposes.
- 2.5 The Section 151 Officer shall prepare and publish the Annual Accounts of the Council in accordance with statutory requirements and the policies of the Council.
- 2.6 The Section 151 Officer is responsible for making all statutory returns and the like to H M Customs and Excise in relation to Value Added Tax, and for the obtaining and giving of advice and guidance to the Council and Chief Officers on Value Added Tax matters.
- 2.7 Each Chief Officer is responsible for ensuring the correct treatment of Value Added Tax on all accounts payable by, and all invoices raised by, their departments.

### **Budget holders**

- 2.8 Budget holders shall maintain financial records and accounts that can be accessed by the Section 151 Officer when required. The financial records shall be retained by budget holders for such periods as required for Council or statutory purposes.
- 2.9 Budget holders will endeavour to manage all financial records and accounts using the Council financial management system. This will enable the Section 151 Officer to maintain effective control and audit of the financial affairs of the Council.
- 2.10 Budget holders shall consult with the Joint Leadership Team on any matter which is liable to affect the finances of the Council. No report to the Cabinet or relevant Committee shall be made until such consultation has taken place.

- 2.11 Directors may designate Officers to be responsible for authorising financial transactions on their behalf. Directors must inform the Section 151 Officer of all Officers with delegated financial responsibilities.
- 2.12 Budget holders, in consultation with the Section 151 Officer, are responsible for ensuring that all financial affairs of the Council are managed in a properly controlled environment and compliant with the Council Information Security Policy.

### **Reporting**

- 2.13 Any employee that suspects any irregularity should raise their concerns with their line manager and in accordance to the Whistleblowing Policy.
- 2.14 The Chief Executive Officer and the Section 151 Officer will take such steps as they consider necessary by way of investigation and report.

### **Controlled stationery**

- 2.15 The Section 151 Officer shall control the issue and use of controlled stationery. Controls on the use of such stationery must be adequate to enable usage to be traced and to prevent incorrect or fraudulent usage.
- 2.16 Budget Holders shall be responsible for the security and use of controlled stationery and are not permitted to obtain controlled stationery other than from the Section 151 Officer.

## **3. Banking arrangements**

- 3.1 The Section 151 Officer shall make and control arrangements as necessary for the operation of banking services for the Council.
- 3.2 All monies received on behalf of the Council should be brought to the attention of the Section 151 Officer and banked in accordance with their instructions.
- 3.3 The Section 151 Officer shall arrange payments or transfers to and from the Council's bank accounts by the use of electronic methods.
- 3.4 The Section 151 Officer shall ensure that all bank accounts and credit cards operated by the Council are reconciled at intervals of no longer than one calendar month.

## **4. Forward financial planning**

- 4.1 The Section 151 Officer will prepare, for the Cabinet, a timetable each year for the preparation, submission and approval of the

forward financial plan covering revenue budgets and capital expenditure.

- 4.2 The Section 151 Officer will ensure that the forward financial plan is prepared in accordance with the timetable and any guidelines issued by the Cabinet.
- 4.3 The Cabinet shall consider the proposed forward financial plan and each year shall submit appropriate recommendations to the Council. The report shall include a recommendation as to the council tax to be levied in the following financial year.
- 4.4 The Section 151 Officer shall provide financial information in an appropriate form for the continuous monitoring and control of financial activities of the Council by the Cabinet and each Committee with finances allocated to it.
- 4.5 The Section 151 Officer shall inform the Cabinet of any significant variation to the financial plan during the financial year. If for any reason any head budget of approved expenditure may be significantly exceeded or the estimated income not reached, the Section 151 Officer shall inform the Cabinet or relevant Committee together with a proposal to address the situation.
- 4.6 Any proposal to incur expenditure, either capital or revenue, above those limits set out on the Council's budget and policy rules, or responsibility for Executive functions, that is not included in the existing financial plan or budget shall be recommended by the Cabinet to the Council. The recommendation must include the full financial implications of the proposal.

## **5. Expenditure**

### **Official orders**

- 5.1 Official orders shall be issued using the Council's financial system, for all works, goods or services to be supplied to the Council except for supplies of public utility services, for periodical payments such as rent or rates, for petty cash purchases or other exemptions approved by the Section 151 Officer.
- 5.2 Procurement of works, goods or services to be supplied to the Councils shall be completed in accordance with the Council's Contract Procedure Rules.
- 5.3 Official orders shall specify the nature and quantity of goods, services, or works required, any relevant contract, and the agreed prices.
- 5.4 Official orders shall not be issued for works, goods or services unless the cost is within an approved estimate or other financial provision.

## **Certificates for payment**

- 5.5 All certificates for payment shall be authorised for payment by the signature, or electronic signature (approval) via the Council's financial management system, of the appropriate budget holder or other authorised signatory, as agreed by the Section 151 Officer. Such authorisation shall imply that:
- 5.5.1 The expenditure is within an approved estimate or other financial provision;
  - 5.5.2 The expenditure has been coded to the correct financial heading;
  - 5.5.3 The goods, services or works have been supplied and are satisfactory;
  - 5.5.4 Appropriate prices have been charged for the goods, services or works;
  - 5.5.5 All conditions imposed by the order or contract agreement have been substantially complied with;
  - 5.5.6 Where applicable Value Added Tax, Construction Industry Tax or any other relevant taxation requirements are complied with;
  - 5.5.7 The certificate for payment has not previously been passed to the Section 151 Officer for payment; and
  - 5.5.8 Appropriate entries have been made in all relevant inventories, stock records or asset registers.
- 5.6 To reduce multiple certificates for payment, budget holders should aim to agree payment within 30 days of receipt of invoice. Invoices will be paid by BACS where possible.
- 5.7 The Section 151 Officer shall examine accounts passed for payment and shall make such enquiries and receive such information as necessary to establish that the payments are in order.

## **Advance accounts (petty cash, change floats etc.)**

- 5.8 The Section 151 Officer may provide advance accounts to designated Officers for petty cash or for change float purposes.
- 5.9 The maximum limit of advance accounts shall be agreed with the Section 151 Officer and not exceeded without permission of the Section 151 Officer. Appropriate safes and other receptacles shall be provided as required.
- 5.10 The Officers responsible for advance accounts shall maintain a record of their transactions in the form and manner required by the Section 151 Officer.
- 5.11 Payments from advance accounts shall be limited to minor items of expenditure not exceeding £20. The claim must be supported by a receipted voucher and properly authorised claim form.

- 5.12 Officers with responsibility for an advance account shall be required to provide information about the state of the account to the Section 151 Officer as necessary.
- 5.13 If the advance account is no longer required or an Officer ceases to be responsible for holding an account, the relevant budget holder shall ensure that the balance of the advance account is returned to the Section 151 Officer.

## **6. Income**

- 6.1 Budget holders shall notify the Section 151 Officer of all money due to, or expected by, the Council. This includes sponsorship or grant income, contracts, leases and other agreements entered into which involve the receipt of monies.
- 6.2 Where cheques are paid in, the amount of each cheque and a reference to enable the cheque to be traced shall be recorded on the banking paying-in-slip or a format agreed with the Section 151 Officer.
- 6.3 An official receipt is a written or printed acknowledgement given on behalf of the Council's for monies received. Such acknowledgement shall be given from a cash receipting system which has been approved for use by the Section 151 Officer.
- 6.4 All monies shall be held and transported securely in accordance with any requirements from the Section 151 Officer.
- 6.5 Each budget holder is responsible for ensuring that accounts are promptly and accurately raised in respect of charges for work done or goods or services supplied. This includes cases where sponsorship money or grant income is due.
- 6.6 The Section 151 Officer may write off irrecoverable debts or overpayments, or write on credit balances that cannot be repaid up to a limit of £5000 in any one case.

## **7. Contracts**

- 7.1 All contracts made for and on behalf of the Council shall be subject to the Contract Procedure Rules, these FPRs and any other statutory provision, except in circumstances where the Council is acting as an agent for another organisation which specifically directs otherwise.
- 7.2 The Section 151 Officer shall maintain a register of payments due and made under formal contracts over £50,000 to show the state of account on each contract between the Council and the contractor, together with any other payments.



- 7.3 Payment on account of the contract sum shall be made only on a certificate signed by the appropriate budget holder. The certificate shall show, as a minimum, the total amount of the contract, the value of work executed to date, retention money, amount paid to date and the amount now certified.
- 7.4 Before a certificate for final payment under a contract is paid, the appropriate budget holder shall produce to the Section 151 Officer a detailed written statement of account, together with such other documents as may be required.
- 7.5 The appropriate budget holder shall be empowered to authorise an extra, or variation in a contract. Where the variation is estimated to result in a material increase in the contract sum it shall be reported to the next meeting of the relevant Cabinet.
- 7.6 Where completion of a contract is delayed, except for reasons qualifying for an extension of the contract, it shall be the duty of the budget holder to supply the Section 151 Officer with all necessary information to allow the correct amount of Liquidated and Ascertained Damages to be claimed.

## **8. Treasury Management**

- 8.1 The Council has adopted the Chartered Institute of Public Finance and Accountancy (CIPFA) "Code for Treasury Management in Local Authorities". If deemed necessary, the Section 151 Officer shall advise the Cabinets of any significant amendment to the CIPFA Code.
- 8.2 The Section 151 Officer shall be authorised to make investment, borrowing and financing decisions on behalf and in the name of the Council. All decisions shall be taken in accordance with the Council's Treasury Management Investment Strategy.
- 8.3 All monies held by the Council shall be aggregated for the purposes of treasury management and shall be under the control of the Section 151 Officer.
- 8.4 All investments and borrowing, including for any Trust administered by the Council, shall be made in the name of the Council and any deeds relating to such funds shall be deposited with the Monitoring Officer or otherwise as deemed appropriate by the Section 151 Officer.
- 8.5 The Section 151 Officer is given the authority to deal with any emergency situation that may arise in relation to any matters not already delegated within the Treasury Management Policy. Use of emergency authority will be reported at the next meeting of the relevant Cabinet.

## **9. Staffing**

- 9.1 The Director (HR, Governance and Regulatory) shall make and control arrangements for the payment of salaries, wages, expenses and benefits to employees in accordance with the approved salary scales and wage rates.
- 9.2 The Director (HR, Governance and Regulatory) shall be provided with the appropriate documentation required to ensure the payment of salaries, wages, pensions and other expenses due to employees.
- 9.3 All claims for payment must be made as soon as possible and in no circumstances should a claim be delayed for more than three months after the date on which the work was done or the expenses incurred.
- 9.4 Matters which affect employee payments shall be referred direct to the Director (HR, Governance and Regulatory). Notification shall include:
  - 9.4.1 Details of all appointments, resignations, dismissals, suspensions, secondments and transfers.
  - 9.4.2 Details of any training.
  - 9.4.3 Changes in remuneration except for national pay increases;
  - 9.4.4 Absence from duty for sickness or other reason, apart from approved leave; and
  - 9.4.5 Information necessary to maintain records for pension, income tax, national insurance etc.
- 9.5 The Director (HR, Governance and Regulatory) shall maintain appropriate records and make arrangements for the payment of sums due to Councillors in accordance with the Allowance Scheme approved by the Council.

## **10. Insurance**

- 10.1 The Section 151 Officer shall make and control arrangements for the provision of necessary insurance cover and for the negotiation of any insurance claims.
- 10.2 The Section 151 Officer shall obtain competitive quotations from insurers for the provision of insurance at least every five years unless otherwise determined by the current contract term or the Cabinet.
- 10.3 All budget holders shall notify the Section 151 Officer of all insurable risks arising from the activities carried out in their area of operation. Such notification shall include:
  - 10.3.1 The acquisition of any property which is capable of insurance against fire or other risks.

- 10.3.2 Any amendment to the value of any Council-owned asset likely to affect the insurable risk.
- 10.3.3 Any insurable risk which may arise through the activities of Councillors or employees of the Council.
- 10.4 All Chief Officers shall notify the Section 151 Officer of the occurrence of any event which may give rise to a claim under any policy of insurance held by the Council or to an ex gratia payment.
- 10.5 The Section 151 Officer shall be authorised to make the appropriate reimbursement of any insurance claim up to the excess limit of the insurance policy concerned.
- 10.6 All appropriate employees of the Council shall be included in a suitable fidelity guarantee insurance.
- 10.7 Officers shall consult the Section 151 Officer and the Director (HR, Governance and Regulatory) in respect of the terms of any indemnity which the Council is requested to give.

## **11. Property**

- 11.1 The Director (Resources and Performance) is the Council's Asset Registrar and shall maintain an asset register and associated records of all land and buildings owned, leased or managed by the Council.
- 11.2 The Director (HR, Governance and Regulatory) shall have custody of and keep all title deeds in a secure manner.
- 11.3 All Officers shall be responsible for maintaining proper security of staff and assets under their control.
- 11.4 The Director (Families and Communities) shall be responsible for ensuring that adequate controls and security procedures are maintained in connection with the Council's information technology systems and installations.

## **12. Glossary of Terms**

- 12.1 Further details of the definitions, specific responsibilities and delegations of Chief Officers and Budget Holders referred to above, are contained in the Scheme of Delegation for Officers, as contained in Part 3 (Responsibility for Functions) of the Council's Constitution.

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## **West Suffolk Council Contract Procedure Rules**

**March 2022**

(Adopted by Council: 27 September 2022)

## **Introduction**

- 1.1 These Contract Procedure Rules (Contract Procedure Rules) have been issued in accordance with Section 135 of the 1972 Local Government Act and the Public Contract Regulations 2015 (PCR2015) and adopted by West Suffolk Council to give consistency to procurement across the organisation.
- 1.2 Procurement is the process by which the Council manages the acquisition of all goods, services and works. It includes the identification of need, consideration of options and the actual procurement process.
- 1.3 The Procurement Policy lays out the strategic aims that West Suffolk is seeking to deliver through its procurement process. These Contract Procedure Rules must be read in conjunction with this policy in order to ensure that decisions are made in line with these aims.
- 1.4 These Contract Procedure Rules should be followed for all contracts unless they fall under the exclusion list in section 11 or are subject to an exemption. The circumstances where an exemption may be granted are listed in section 10.
- 1.5 The disposal of assets and the acquisition, use and disposal of Land and Buildings are not covered by these Contract Procedure Rules and are to be considered alongside the Financial Procedure Rules.
- 1.6 For the purposes of these Contract Procedure Rules there is a requirement for all communication to be in writing except where otherwise specified. This shall be deemed to include electronic communication, use of e-procurement and fax transmissions or hard copy.

## Procurement thresholds and key requirements

- 2.1 In order to provide the appropriate level of proportionality to the requirements for varying scale of contracts the table below lays out the financial thresholds and the process and requirements at each level.
- 2.2 The Sustainable Procurement Requirements at the carrying contract values differ between critical and non-critical service areas. For the purposes of sustainable procurement critical service areas are those that have the most significant environmental impact.
- 2.3 These critical service areas are:
- Construction projects
  - Vehicle fleet
  - Facilities
  - Utilities

All other service areas are designated as non-critical for the purposes of sustainable procurement.

Value of Contract	Award Procedure	Sustainable Procurement Requirements (non critical service areas)	Sustainable Procurement Requirements (critical service areas)
£0 - £20,000	Procure as required	Reference Sustainable Procurement Ask and consideration	Reference Sustainable Procurement Ask and consideration
£20,001 - £100,000	Formal quotation procedure	Reference Sustainable Procurement Ask and consideration	Reference Sustainable Procurement Ask and consideration
£100,001 – International Advertisement Threshold (~£190k Revenue, £4.3m Capital)	National tender procedure	Reference Sustainable Procurement Ask and consideration. Include Sustainable Procurement question within tender (min 10% weighting).	Include Sustainable Procurement question within tender (min 10% weighting). Provide evidence of: - <i>use of an environmental policy statement</i> - <i>Specific targets for, and evidence, of working towards net zero carbon emissions.</i>

Above IA Threshold	National tender procedure	Include Sustainable Procurement question within tender (min 10% weighting). Provide evidence of: - <i>use of an environmental policy statement</i> - <i>Specific targets for, and evidence, of working towards net zero carbon emissions.</i>	Include Sustainable Procurement question within tender (min 10% weighting). Provide evidence of: - <i>use of an environmental policy statement</i> - <i>Specific targets for, and evidence, of working towards net zero carbon emissions.</i>
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## Award procedure

- 3.1 The award of a contract can either be through direct approach to the market with the proportional requirements as laid below or through use of a procurement framework agreement (see section 4). Use of a framework agreement will automatically meet the award procedure requirements.

### Procure as required (£0-£20,000)

- 3.2 Where the estimated value of goods, works or services to be supplied is less than £20,000 there can be direct procurement without the need for specification, multiple quotations or defining award criteria. In these instance Officers need to be satisfied that the arrangements made secure the best available terms for the Council.

### Formal quotation procedure (£20,001-£100,000)

- 3.3 The Request for a Formal Quotation shall be issued through the e-procurement portal utilising the standard template available in the Procurement Webpage and shall specify the supplies, services or works that are required together with the appropriate terms and conditions of contract as agreed with the Service Manager (Legal) and will state that no Formal Quotation will be considered unless it is received by the date, time and method stipulated.
- 3.4 All organisations invited to provide a Quotation must be issued with the same information at the same time and subject to the same conditions.
- 3.5 Three Formal Quotations shall be invited where the Officer is satisfied that competitive Quotations will be received from those three. If less than three quotations are received the process can be continued subject to Officer approval.
- 3.6 Providing clarification of a Request for a Quotation to a Bidder is permitted and is provided for within e-procurement.
- 3.7 For the receipt and opening of a Formal Quotation there must be strict compliance with the requirements of e-procurement.



### Formal tender procedure (£100,001-International Advertisement threshold)

- 3.8 All procurement above £100,000 shall be conducted in accordance with advice from the Procurement Manager and shall be undertaken as an Open Tender Procedure using e-procurement system.

### Open tender procedure

- 3.9 The Invitation to Tender shall be issued through the e-procurement portal and shall specify the supplies, services or works that are required together with the appropriate terms and conditions of contract as agreed with the Service Manager (Legal). It will also state that no Tender will be considered unless it is submitted via the e-procurement portal.
- 3.10 All organisations invited to provide a Tender must be issued with the same information at the same time and subject to the same conditions. All dialogue with Bidders during the process must be dealt with using the e-procurement portal.
- 3.11 Utilising the standard template available in the Procurement Webpage, all Invitations to Tender shall include a Form of Tender, and other documentation as advised by the Service Manager (Legal) or the Procurement Manager.
- 3.12 Providing clarification of an Invitation to Tender to Bidder is permitted and is provided for within e-procurement.
- 3.13 For the receipt and opening of a Tender there must be strict compliance with the requirements of e-procurement.
- 3.14 The Officer must ensure that there is approval from the Director for International Advertisement threshold procedure
- 3.15 All procurement above the International Advertisement threshold shall be conducted in accordance with advice from the Service Manager (Legal) and the Procurement Manager and shall be undertaken using e-procurement. Provisions, such as those relating to the receipt and opening of Tenders, must be followed exactly in accordance with the legislation.
- 3.16 All transactions exceeding the International Advertisement threshold must be conducted in accordance with the required procedures as set out in the PCR2015. Strict rules govern the process in relation to timescales, descriptions and selection procedures and these are in addition to these Contract Procedure Rules. Advice must be sought from the Procurement Manager and the Service Manager (Legal) in all circumstances where there is a likelihood of the PCR2015 limits being exceeded. Before awarding any contract above the tender threshold.

## Framework agreements

- 4.1 A Framework Agreement may be entered into with one provider, or, where an agreement is concluded with several organisations, there must be at least three providers. Advice must be sought from the Procurement Manager when a Framework Agreement is being considered. Contracts based on Framework Agreements may be awarded by either:
- Direct Call Off - applying the terms laid down in the Framework Agreement (where such terms are sufficiently precise to cover the particular call-off) without reopening competition, or
  - Mini Competition - where the terms laid down in the Framework Agreement are not precise enough or complete for the particular call-off, by holding a mini competition.

## Specification setting

- 5.1 For procurement where a specification document is required the Officer must prepare a document that describes the Council's requirements in sufficient detail to enable the submission of competitive offers before starting a procurement process. The specification document must include performance targets and/or the criteria for acceptance and must be outcome or output based.
- 5.2 Consideration must also be given by the Officer to economic, environmental and social value benefits of any proposed procurement to include consulting stakeholders where appropriate. Further information is within the Procurement Policy or advice can be obtained from the Procurement Manager.
- 5.3 The Officer must define Award Criteria and any sub criteria that are appropriate to the procurement and designed to secure an outcome delivering the strategic procurement aims for the council. The basic criteria shall be:
- Lowest price (to ensure value for money)
  - Delivery of specification
  - Environmental impact (min 10% weighting). The West Suffolk Council Procurement policy can be used a reference for setting this criteria.
- 5.4 Award Criteria must not include:
- Matters which unfairly discriminate against suppliers
- 5.5 Good practice requires that quoted prices or tendered prices must not be altered without justification. However where there is a risk that a priced document maybe subject to computational errors then the Officer must decide, at the time that the specification is agreed,

how such errors will be treated and this should be detailed within the Specification. Further information is within the Procurement Webpage or advice can be obtained from either the Procurement Manager or the Service Manager (Legal).

### **Officer responsibilities**

- 6.1 Officers responsible for procurement must comply with these Contract Procedure Rules, Financial Procedure Rules, the Officers' Code of Conduct, and with all UK binding legal requirements. Officers must ensure that any Agent, Consultants and contractual partners acting on the Councils' behalf also comply.
- 6.2 Before requesting Quotations or inviting Tenders the Officer must:
- Explore whether there is an alternative to buying the goods services or works.
  - Check with the Procurement Manager whether a relevant contract exists before seeking to enter into a further contract; if such a relevant contract exists, this must be used unless there is an auditable reason not to.
  - Check with the Procurement Manager whether a suitable Framework Agreement is available from any Contracting Authority or Professional Buying Organizations (e.g. ESPO, GPS, YPO, CBC etc.) before starting a new procurement; where a suitable Framework Agreement exists, consideration should be given to procure from it unless there is an auditable reason not to.
  - Confirm that there is member or delegated approval for the expenditure and the procurement complies with the approved policy and scheme of delegation as set out in the Constitution.
  - If a Tender relates to a contract award which is a Key Decision, confirm that all appropriate steps have been taken.
  - Seek timely procurement, legal, financial, and other professional advice.
  - Confirm that they are authorised to use the e-procurement portal or obtain authorisation from the Procurement Manager.
  - Have regard to the guidance in the Procurement Webpage and the Procurement Policy.
  - Give consideration to Contract Management and prepare a business case if the project is high risk, high profile or of significant financial value
  - Keep records of all Contracting Decisions taken.
- 6.3 The Officer must ensure that timely advice is sought from the Director - HR, Governance & Regulatory when any employee

either of the Councils or of a service provider may be affected by the Transfer of Undertaking (Protection of Employment) Regulations 2006 (TUPE) issues before proceeding with inviting Tenders or Quotations.

### **Contract formalities**

7.1 All contracts to which these Procedure Rules apply shall be in writing.

7.2 Advice from the Service Manager (Legal) and the Procurement Manager must be sought for the following contract types:

- Where the Total Value exceeds the International Advertisement thresholds
- Those involving leasing arrangements where it is proposed to use a supplier's own terms and conditions
- Agreements involving the development of land for public benefit
- Those that are complex in any other way.

7.3 All contracts shall clearly specify:

- What is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done)
- The provisions for payment (i.e. the price to be paid and when)
- Whether the price stated is inclusive or exclusive of Value Added Tax
- The time, or times, within which the contract is to be performed
- The provisions for the council to terminate the contract.

7.4 Guidance must be sought from the Service Manager (Legal) for the terms and conditions that will apply to any contract with a value in excess of £50,000.

7.5 Where a contract does not contain a defined extension period but supply of goods/services is desired to continue past the contract end date, then either:

- a re-tender for that contract must be performed in line with the Procurement thresholds in paragraph 2.3. or
- an exemption must be granted for a contract extension under the circumstance listed in paragraph 11.5

## **Advertisement of quotation or tender opportunities**

8.1 Officers shall ensure that a sufficiently accessible advertisement is published to generate the appropriate level of interest in the contract. Examples of where such advertisements may be placed include:

- Suffolk Sourcing and Contracts Finder.
- Constructionline or similar specialist portal websites created for contract advertisements
- the Council's website
- the Council's social media accounts
- national official journals
- the Find a Tender public services platform.
- Any other appropriate mechanism in consultation with the Procurement Manager and Service Manager (Legal).

8.2 The Officer must ensure to give Bidders an adequate period in which to prepare and submit a Quotation or Tender consistent with the complexity of the contract requirement. Advice must be sought from the Procurement Manager but the following are recommended:

Quick Quotation 10 Calendar Days

Formal Quotation 28 Calendar Days

Formal Tender 28 Calendar Days

EU Tender The timescales are prescribed and vary according to procedure utilised.

8.3 No Quotation or Tender received after the date and time indicated in the Request for Quotation or Invitation to Tender shall be accepted or considered, other than exceptional circumstances and the Officer must consult with the Monitoring Officer and Procurement Manager.

## **Collaborative arrangements**

9.1 In order to secure Value for Money, the Council may enter into collaborative procurement arrangements. The Officer must consult with the Procurement Manager in these circumstances.

9.2 All procurement made via a local authority procurement consortium or a Professional Buying Organisation (PBO) are deemed to comply with these Contract Procedure Rules and no exemption is required.

However, procurements above the PCR2015 limits must be let in accordance with those procedures, unless the consortium has satisfied this requirement already

- 9.3 Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the Contract Procedure Rules of the leading organisation, will be deemed to comply with these Contract Procedure Rules and no exemption is required. However, advice must be sought from the Procurement Manager.

## **Exclusions**

- 10.1 These contract procedure rules apply to all contracts commissioned by the Council, except for:
- The making of grant payments which are covered by the Financial Procedure Rules, or
  - Contracts of employment which make an individual a direct employee of the council, or
  - The engagement of Counsel/Advocates or other experts by the Service Manager (Legal) where such engagement falls outside an existing framework for the provision of legal services, or
  - Contracts where delay will adversely impact on the service delivery of the Council and there is a prior specialised knowledge of a particular building or asset, or
  - Agreements regarding the acquisition, disposal, or transfer of land. Further guidance must be sought from the Service Manager (Legal) or the Procurement Manager; or
  - The lending and borrowing of money, or
  - The purchase or sale by auction or at public fairs and markets, or
  - The purchase of works of art or museum specimens, or
  - Agreements in relation to festivals and arts programming, or
  - Agreements under s.106 of the Town and Country Planning Act 1990 (as amended).

## **Exemptions**

- 11.1 Exemptions to the procurement process cannot be awarded where the proposed value exceeds the International Advertisement threshold.

- 11.2 Below this threshold, exemptions must only be sought in exceptional circumstances and all exemptions, must be recorded.
- 11.3 Between £100,001 and the International Advertisement thresholds, any exemption must be approved by the relevant service Director in consultation with the Section 151 Officer, The section 151 Officer shall keep records of all exemptions granted along with reasons and supporting evidence for such exemptions.
- 11.4 Below £100,000 any exemption must be approved by the Director or an officer delegated to make such decisions by the Director. The Director, or delegated officer, must send a record of the exemption to the Section 151 Officer alongside supporting evidence and reasons.
- 11.5 Exemptions are likely only to be granted in the following circumstances:
- An unforeseeable emergency involving immediate risk to persons or property, or serious disruption to council services.
  - The goods or services are supplied at a fixed price or the prices are wholly controlled by trade organisations and the relevant Director is satisfied that no satisfactory alternative is available.
  - The works to be executed consist of repair or supply of parts of existing propriety machinery or plant.
  - The items to be supplied consist of goods or services which are currently in use and are required for the purposes of standardisation.
  - Best value is anticipated to be delivered from sourcing goods on the second-hand market where no competing quotations can be obtained.
  - The anticipated disruption/cost of changing supplier will significantly outweigh the savings generated from retendering.
  - The specialised nature of the goods, services to be supplied or the works to be executed means that only one suitable supplier has been identified or is available.
  - Emergency action is required and/or immediate repairs are required to buildings, structures and other assets damaged by fire, flood or vandalism.
  - Unforeseen works where delay will adversely impact on the service delivery for the Council.
  - For a 'pilot' scheme where goods and services are procured on an experimental basis and considered to be the most appropriate approach for a particular scenario and where 'pilot' scheme is for a clearly defined period not exceeding 24 months and where agreed by relevant Service Manager and the Procurement Manager.

- 11.6 If an exemption is sought which is not for any of the above reasons, advice must first be obtained from the Monitoring Officer and Section 151 Officer in order to determine whether such an exemption can be applied. Exemptions for reasons not listed above will be acceptable only in exceptional circumstances.

## **Records and safekeeping**

- 12.1 It is essential that for every Procurement exercise a record is kept by the Officer. Where e-procurement has been used then the system retains the records from after the Request to Quote or Invitation to Tender has been issued up to the Contract Award.
- 12.2 For every awarded contract over £25,000 the details of the winning tender must be sent to the Procurement Manager in the prescribed format. This includes awards made following a call-off from a Framework Agreement and contracts that may not have been openly advertised or been granted an exemption. This list of awards will be published in accordance with government transparency requirements.
- 12.3 Where the Total Value does not exceed £50,000, the following records must be kept:
- Request to Quote and Quotations (including name of Bidder and price)
  - Any exemption and the reason for them
  - Any clarification question and the answer
  - Award Criteria if the award is most economically advantageous
  - Details of how the Quotations were stored before opening
  - When and how the Quotations were opened
  - Written records or communications with the successful Bidder or an electronic record if written record of the transaction would normally not be produced.
- 12.4 Where the Total Value exceeds £50,000 the Officer must record:
- The method for obtaining bids
  - Pre-tender market research
  - Any Contracting Decision and the reasons for it
  - Any exemption together with the reasons for it



- The Award Criteria in descending order of importance and any sub criteria
- The Invitation to Tender sent to and received from the Bidder
- Clarification and post-tender negotiation (to include minutes of meetings)
- The contract documents
- Post-contract evaluation and monitoring
- Communications with the Bidder and with the successful contractor throughout the period of the contract.

12.5 Records relating to procurement must be retained in accordance with the Council's Retention guidelines.

12.6 Details of all Renewable Contracts (regardless of value) are and shall be entered onto the contract management system with the following details:

- The title of the contract and reference number
- The parties to the contract
- The name of the service and contract manager primarily responsible for the contract
- The estimated total value of the contract or the estimated annual spend or budget
- The start date, end date, review dates and any date to which the contract may be extended
- The procurement method to include details of any Framework Agreement.

12.7 The original executed and completed copy of all contracts over the value of £50,000 shall be passed to the Service Manager (Legal) for safe-keeping.

12.8 Directors shall be responsible for the safekeeping of all other contracts falling within their designated functions.

### **Evaluation, award of contract, and debriefing bidders**

13.1 Apart from the debriefing required or permitted by these Contract Procedure Rules, the confidentiality of Quotations, Tenders and the identity of Bidders must be preserved at all times and information about one Bidder's response must not be given to another Bidder.

13.2 Contracts must be evaluated and awarded in accordance with the Award Criteria. During this process, Officers shall ensure that submitted

prices are compared with any pre-process estimates and that any discrepancies are examined and resolved satisfactorily.

- 13.3 The arithmetic in compliant Quotations or Tenders must be checked. If computational errors are found in the lowest or most economically advantageous bid, then advice must be sought from the Service Manager (Legal) before they must be notified to the Bidder. Further the Request to Quote or Invitation to Tender must be reviewed to ascertain the procedure in these circumstances.
- 13.4 Officers may accept Quotations and Tenders received in respect of proposed contracts, provided that they have been sought and evaluated fully in accordance with these Contract Procedure Rules and they do not exceed the budget provision. Only the successful Bidder will be subject to the appropriate Financial Vetting.
- 13.5 Where the Total Value is above the International Advertisement thresholds the Officer must notify all Bidders simultaneously and as soon as possible of the intention to award the contract to the successful Bidder. The Officer must provide unsuccessful Bidders with a period of at least ten days in which to challenge the decision before the Officer awards the contract. If the decision is challenged by an unsuccessful Bidder, then the Officer shall not award the contract and shall immediately seek the advice of the Service Manager (Legal).
- 13.6 The Officer shall debrief in writing all those Bidders who submitted a Tender about the characteristics and relative advantages of the leading Tenderer. No information, other than the following, must be given without taking the advice of the Procurement Manager or the Service Manager (Legal):
- How the Award Criteria were applied
  - The prices or range of prices submitted, in either case not correlated to Bidders' names.
- 13.7 If a Bidder requests in writing the reasons for any Contracting Decision (to include those deselected in any pre-tender shortlisting process) the Officer must give the reasons in writing within 15 days of receipt of the request. Guidance must be sought from the Procurement Manager.

### **Post-tender negotiation**

- 14.1 Post-tender negotiation means discussions with a Bidder, or a number of Bidders, and can be a useful tool in making improvements to Quotations or Tenders. It can ensure that the Council obtains true value for money by purchasing an acceptable finished product at a competitive but fair market price, within the time stipulated. It can also ensure that potential suppliers have no illusions or misunderstandings as to their exact obligations under the terms of any contract. Further Guidance is available within the Procurement Webpage.

- 14.2 Advice must be obtained from the Service Manager (Legal) prior to entering into any Post-Tender Negotiations. Where post tender negotiation results in a material change to the specification (or contract terms) the contract must not be awarded and must be re-tendered.
- 14.3 Negotiations must not take place unless the Formal Quotation or Tender specifically reserves the right to do so. Any negotiations will occur following the closing date for receipt of Quotations or Tenders but before award of the contract.

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## **Suffolk Code of Conduct**

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

## **Introduction**

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

## **Definitions**

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

## **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

**As a councillor:**

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

#### **2. Bullying, harassment and discrimination**

**As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.



The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the council**

**As a councillor:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

**As a councillor:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

#### **4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members,**

**my employer or my business interests.**

**4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

**5. Disrepute**

**As a councillor:**

**5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

**6. Use of position**

**As a councillor:**

**6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

**7. Use of local authority resources and facilities**

**As a councillor:**

**7.1 I do not misuse council resources.**

**7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

**As a Councillor:**

- 8.1 I undertake Code of Conduct training provided by my local authority.**
- 8.2 I cooperate with any Code of Conduct investigation and/or determination.**
- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

## **Protecting your reputation and the reputation of the local authority**

### **9. Interests**

**As a councillor:**

- 9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises.

The register

also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is

maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

**As a councillor:**

**10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**

**10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**

**10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendix A – The Seven Principles of Public Life**

The principles are:

### **Selflessness**

Holders of public office should act solely in terms of the public interest.

### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**“Disclosable Pecuniary Interest”** means an interest of yourself, or of your partner if you are aware of your partner’s interest, within the descriptions set out in Table 1 below.

**“Partner”** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

\* Only relevant where an executive function has been delegated to an individual

## Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which affects –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

\* Only relevant where an executive function has been delegated to an individual

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by them in carrying out their duties as a councillor, or towards their election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.



<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the councillor, or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) ) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## Table 2: Other Registerable Interests

You must register as an Other Registerable Interest :

- a) any unpaid directorships
- b ) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
  - (i) exercising functions of a public nature
  - (ii) directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management

## **West Suffolk Council**

### **CODE OF CONDUCT FOR EMPLOYEES**

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## 1. Introduction

- 1.1 This document provides guidance to all employees of West Suffolk Council on the standards required in relation to service, advice, disclosure of interests and hospitality which will help to maintain and improve standards and protect employees from misunderstanding and criticism.
- 1.2 The public is entitled to demand and expect that all employees will conduct themselves at the highest standard and with complete integrity. The Code of Conduct sets out to support this through setting standards for the conduct of its employees.
- 1.3 This Code is based on a model produced, after consultation, by the local Authority associations and the former Local Government Management Board. A copy is available on the intranet for all employees. Local consultations with Unison have also taken place.
- 1.4 The Code sets out the minimum standards that employees should observe. If an employee of the Council should fail to observe the Code of Conduct normal disciplinary procedures will apply.

## 2. Standards

- 2.1 Our employees are expected to give the highest possible standard of service to the public and where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality. Employees will be expected, through agreed procedures (the "Whistleblowing Policy", the Anti-Fraud and Anti-Corruption strategy statement) and without fear of recrimination, to bring to the attention of the appropriate level of management, any circumstance that may lead to a lowering of the standards of the provision any given service. Employees must report a situation where there may be a breach of procedure or a failure to comply with this Code of Conduct to their manager or a member of Leadership Team (LT).
- 2.2 The Committee of Standards in Public Life has set out '**Seven Principles of Public Life**' which it believes should apply to all in the public service. The Council believes that these principles apply to staff of the Council as well as to Councillors. They are:-
  - i) **Selflessness**  
Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
  - ii) **Integrity**  
Holders of public office should not place themselves under any financial or other obligation to individuals or organisations that might seek to influence them in the performance of their official duties.
  - iii) **Objectivity**  
In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

- iv) **Accountability**  
Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- v) **Openness**  
Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- vi) **Honesty**  
Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- vii) **Leadership**  
Holders of public office should promote and support these principles by leadership and example.

### 3. Disclosure of Information

- 3.1 It is generally accepted that open government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. The Council will ensure that employees are aware of which information their authorities are and are not open about, and act accordingly. A Policy and guidance for staff on the Freedom of Information Act and Data Protection Act is available on the intranet.
- 3.2 All employees have a responsibility to ensure that they comply fully with the General Data Protection Regulations and the Data Protection Act 2018. It is a criminal offence to knowingly or recklessly obtain or disclose personal data. Employees should not process any personal data unless they are sure that they are authorised to do so. Employees failing to comply with this policy could be subject to action under West Suffolk Councils' disciplinary procedure and leave themselves open to further civil action under the Human Rights Act, Article 8 – Right to Privacy. A Policy and guidance for employees on the Freedom of Information Act and Data Protection Act 2018 is available on the Council's intranet.

### 4. Political neutrality

- 4.1 Employees serve the Council as a whole. It follows they must serve all Councillors and not just those of the Political group or groups and must ensure that the individual rights of all Councillors are respected.
- 4.2 Subject to the Member/Officer Protocol, employees may also be required to advise political groups. They must do so in ways which are consistent with employees' political neutrality.

- 4.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.
- 4.4 Prior to any election there will be a sensitive pre-election period which is notified to all employees of the Council. There is a need for employees to be mindful against political partiality in pre-election periods.
5. Relationships
- 5.1 Councillors
- 5.1.1 Mutual respect between employees and individual Councillors is essential to good local government. Close personal familiarity can arise between Councillors and officers, for example, where an officer is related to a Councillor. Where this arises, efforts should be made to ensure that any potential conflicts of interest are avoided, any interaction in the workplace is professional at all times, and relevant service managers/Directors are made aware to avoid any potential embarrassment that could otherwise arise.
- 5.2 The Local Community and Service Users
- 5.2.1 Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the overall policies of the Council.
- 5.2.2 The Council is committed to equal opportunity for both staff and members of the community.
- 5.3 Contractors
- 5.3.1 All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate Director of Service/Strategic Director in writing. Orders and contracts must be awarded on merit, by fair competition against other tenders and no special favour should be shown to businesses run by, for example, friends, partners (a) or relatives (b) in the tendering process. No part of the local community should be discriminated against.
- (a) *"Partner" in paragraph 5.3 means a member of a couple who live together.*
- (b) *In paragraph 5.3 a "relative" means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and*
- 5.4 Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship, in writing, to their Director of Service/Strategic Director will

declare any such relationship to the Chief Executive and the Chief Executive to the Monitoring Officer.

5.5 Employees who award orders and contracts must comply with the Contracts Procedure Rules.

## 6. Appointment and other Employment Matters

6.1 Employees involved in the appointment of new employees should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant or have a close personal relationship outside work with them.

6.2 Similarly, employees should not be involved in decisions in relation to discipline, promotion or pay adjustments for any other employee who is a relative, partner, etc or where there is a close personal relationship outside work between them.

6.3 If an employee receives any type of criminal conviction during the course of their employment with the Council, it is their duty to disclose the matter to their line manager. The line manager, in liaison with the HR team, will make a decision as to whether this impacts on the employee's employment. Failure to disclose a criminal conviction may lead to disciplinary action.

## 7. Outside Commitments

7.1 Employees at Band 5 and above should not engage in any other business or take up any other appointment, including voluntary roles with an ongoing commitment, without the written consent of the Council. All such commitments must be notified in writing to the appropriate Director of Service/Strategic Director who will decide whether there is any Conflict of Interest. A record of all such correspondence will be retained on the employee's personal file. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the interests of the Council.

7.2 Employees should follow the rules of the Council on the ownership of intellectual property or copyright created during their employment. Intellectual property includes inventions, creative writings and drawings. If these are created during the course of employment then as a general rule they belong to the Council under section 11 of the Copyright, Designs and Patents Act 1988.

## 8. Personal Interests

8.1 Employees must declare, in writing, to their Director of Service/Strategic Director as appropriate, any financial, or non-financial, interests which could reasonably be considered to conflict with the Council's interests.

- 8.2 Employees should declare, in writing, to their Director of Service/Strategic Director, membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct.
- 8.3 The Director of Service/Strategic Director will advise the employee of how the declaration will be handled and the action that should be taken to ensure that no conflict of interest occurs. Declarations will be accepted in confidence and will only be disclosed in appropriate situations. A hypothetical example where the Director of Service/Strategic Director may need to disclose a declaration would be where land owned within the family of a planning or housing officer could be selected as a potential development site, or where services used by the Councils are owned or managed by a family member who is in direct contact with an employee of the Councils responsible for purchasing such services.
- 8.4 If a West Suffolk employee does have a close personal relationship with another officer or a Councillor this should be declared in writing to the HR Department, who may need to inform the relevant Service Manager/Director if this causes potential conflict in undertaking their role. Employees should also declare if they have a close personal relationship with any candidates during a recruitment process

## 9. Register of Disclosure of Interests

- 9.1 All declarations made in accordance with section 5 and 9 of this Code will be in the form attached in the appendices which is available on the intranet.
- 9.2 Each Director of Service, Strategic Director and the Section 151 Officer will maintain a register of declarations received (known as the Disclosure Register). This register will record Gifts and Hospitality declared in their directorates. At the end of each financial year, a summary return of the number of declarations made will be lodged with internal audit.
- 9.3 There is a requirement to review and update entries in the register and staff will be reminded of this on an annual basis. The register will also be subject to review by internal and external auditors as required.
- 9.4 Registers will be retained for a period of 6 years plus the current year.

## 10. Equality Issues

- 10.1 All local government employees should ensure that policies relating to equality issues as agreed by the Authority are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equality in line with the Councils Equal Opportunity Policy.

## 11. Separation of Roles During Tendering

- 11.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Senior employees who have both a client and contractor



responsibility must be aware of the need for accountability and openness. Please refer to the Contracts Procedure rules of the Councils Constitution.

- 11.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 11.3 Employees who have access to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
- 11.4 Employees who are considering a management buyout should, as soon as they have formed a definite intent, inform a Director of the Service and withdraw from the contract awarding processes.
- 11.5 Employees should ensure that no special favour is shown to current or recent former employees or their partners, relatives or friends in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

## 12. Corruption

- 12.1 It is a serious criminal offence for any employee of the Council to receive or give any gift, loan, fee reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity dishonestly. If an allegation is made it is for the employee to demonstrate that any such rewards have not been obtained or given dishonestly.
- 12.2 Any case of suspected corruption will be fully investigated and any proven cases will be treated as gross misconduct and could also result in criminal prosecution.

## 13. Use of Financial Resources

- 13.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure 'value for money' to the local community and to avoid any action which, by its nature, could lead to legal challenge of the Council.

## 14. Gifts, Hospitality and Sponsorship

- 14.1 The NJC Scheme of Conditions of Service for APT&C staff states at Part 2, 2.1 on official conduct:

*'Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained.'*

- 14.2 Employees must be aware that the offering and acceptance of gifts could result in criminal proceedings, under the Bribery Act 2010.

### 14.3 Gifts

- 14.3.1 Any offer, gift, favour or hospitality directed at individual employees or members should be treated with caution.
- 14.3.2 An employee should tactfully refuse any personal gift offered to them or a member of their family, by or indirectly attributable to, any person or body who has, or may have, dealings of any kind with the Council (including applications for planning permission or other kind of decision).
- 14.3.3 An employee should not accept any inducements which could be considered payment in kind, such as money, goods such as chocolates or alcohol, or tickets for events. If refusal would offend, the gift should be reported to their Director of Service/Strategic Director.
- 14.3.4 The only exceptions to these rules are insignificant items of token value such as pens, diaries, calendars etc.
- 14.3.5 In the event of an employee receiving a gift without warning to which refusal would give offence, this should be reported immediately to their Director of Service, Strategic Director or the Section 151 Officer.
- 14.3.6 The Director of Service, Strategic Director or the Section 151 Officer shall be responsible for deciding whether the gift should be retained, returned or forwarded to some charitable or other deserving cause. Any gifts offered or received shall be recorded in a register held by the Monitoring Officer. Registers will be retained for a period of six years, plus the current year.
- 14.3.7 Registers will be reviewed annually, in January, by the Chief Executive to ensure that it is up-to-date and working effectively. The register shall also be open to inspection by the internal and external auditors. The Monitoring Officer will issue an annual reminder to staff to ensure they are aware of the procedures for declaring gifts and hospitality.

### 14.4 Giving and Receiving Hospitality

- 14.4.1 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the local authorities in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. If there is any doubt, please refer the matter to the appropriate Director of Service. They should be properly authorised and recorded in the register held by the Monitoring Officer.
- 14.4.2 When hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the Council.
- 14.4.3 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the Director of Service/Strategic Director/Section 151 Officer gives consent to attendance in advance and where the Councils are satisfied that any purchasing decisions are not

compromised. Where visits to inspect equipment etc are required, employees should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions. Any hospitality received should be notified in writing to the Director of Service/Strategic Director/Section 151 Officer. This is recorded in the Hospitality Register kept by the Monitoring Officer.

## **15. Sponsorship – Giving and Receiving**

15.1 Where an outside organisation wishes to sponsor, or is seeking to sponsor a local government activity, whether by invitation, tender negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors. Further procedural guidelines on Sponsorship can be found in Section 4 Scheme of Delegation to Officers of the Council's Constitution.

## **16. Miscellaneous**

16.1 Employees must comply with the West Suffolk policies on Anti-Fraud, Data Protection and Use of Internet and E-mail.

16.2 As emphasised earlier in this Code, although the guidelines are set down for and apply to all West Suffolk employees, its effect will be greater for those employees involved, for example, in the management and policy making processes. Nevertheless, a copy of this code is made available to every employee whatever their position.

## **17. Enquiries and Change Control**

17.1 All enquiries relating to this document should be directed to Human Resources.

17.2 This policy will be subject to a review every two years which will be initiated by Human Resources in consultation with trade unions.

17.3 Suggestions for any changes to this document should also be forwarded to Human Resources.

17.4 Readers of this document are strongly advised to read the Supplementary Guidance at Appendix C.

Code of Conduct for Local Government Employees  
**Register of Disclosure of Interests - Notes of Guidance**

Under the Code employees, including temporary employees, are required to disclose to their Director of Service/Strategic Director/Section 151 Officer, as appropriate, the interests set out below.

*1. Register of relationships with contractors*

**a. Award of orders and contracts**

Employees who are responsible for the award of orders and the tendering and award of contracts should make known, in writing, to their corporate director all relationships of a business or private nature that they have with existing or potential contractors.

**b. Relationships in a private or domestic capacity**

Employees who, in the course of their job, engage or supervise contractors or have any other official relationship with contractors and who have had, or currently have, a relationship in a private or domestic capacity with existing or potential contractors (or their senior staff).

*2. Personal interests*

**Conflict of interests**

Employees must declare in writing, to their Director of Service/Strategic Director/Section 151 Officer, any financial or non-financial interests which could reasonably be considered to conflict with the Authorities interests.

For example, silent partnerships, major shareholdings, close family relationships (such as husband, wife, partner, parent, brother, sister and child) with those in senior positions in organisations that could do business with the authorities.

Services should ensure:

- a. that employees in the Service (including temporary employees) are regularly advised of the need to make such declarations;
- b. that the Registers are maintained and regularly reviewed; and
- c. that the location of these Registers has been notified to Internal Audit.

**The Registers should be made available to internal and external auditors for inspection.**

<b>Code of Conduct for Employees Register of Disclosure of Interests</b>	
Name:	
Service:	
Directorate:	
<b>Section A: Relationship with contractors</b>	
<p>1. Name and address of contractor:</p>   <p>2. Nature of interest (for example contractor is a friend, personal or business partner, spouse or relative, or there is a relationship with the contractor in a private or domestic capacity):</p>	
<b>Section B: Personal interests</b>	
<p>1. Nature of conflict: (financial/relationship)</p>     <p>Signed: ..... Date: ..... (Employee)</p> <p>Signed: ..... Date: ..... (*Director of Service/Strategic Director) * delete as appropriate</p>	
<p><b>This declaration will be retained on the relevant service area disclosure register. Employees are entitled to see details held on the register about them. The Chief Executive, Monitoring Officer, Strategic Director, Director of Service, external and internal auditors may also have access to it.</b></p>	

This process is to safeguard you from any misunderstanding or criticism.

<b>DECLARATION OF GIFTS AND HOSPITALITY</b>	
<b>This form should be completed for all gifts or hospitality or the offer of any gift or hospitality within 28 days of the offer being made</b>	
<b>Section A (to be completed by the employee)</b>	
Name of Employee:	
Directorate:	
<p>1. Name of the person or organisation that made the offer, gift or hospitality:</p> <p>2. Details of the gift or hospitality offered/received, including estimated or actual value:</p> <p>3. Date offered: _____ Date accepted: _____ Date declined: _____</p> <p>4. The circumstances in which the offer was made or gift/hospitality was accepted:</p> <p>5. I have applied the PROVEIT test overleaf:</p> <p>6. Action taken: (e.g. kept for personal use; personally consumed; donated to Charity; or raffled and proceeds donated to Charity.)</p> <p>Name: .....</p> <p>Signed: _____ Date: .....</p>	
<b>Section B (to be completed by the Director of Service/Strategic Director/Chief Executive)*      *delete as appropriate</b>	
<p>I authorise acceptance of the gifts/hospitality detailed above.*</p> <p>The above gifts/hospitality cannot be accepted and must be refused and/or returned to the person/organisation. *</p> <p>Please provide reasons for decision:</p> <p>Name: .....</p> <p>Signed: _____ Date: .....</p>	
<b>This declaration will be retained on the relevant service area Code of Conduct Register. Employees are entitled to see details held on the register about them. The Chief Executive, Monitoring Officer, Director of HR, Governance and Regulatory, External and Internal Auditors may also have access to it.</b>	

This process is to safeguard you from any misunderstanding or criticism.

You should be aware of the Officers' Code of Conduct and the Gifts and Hospitality – Supplementary Notes of Guidance

Key guidance for the completion of the declaration form:

- All sections of the declaration form must be completed.
- To determine whether a gift or hospitality is acceptable, the 'PROVEIT' test below should be applied.
- Staff should only accept offers of hospitality if there is a genuine need to represent the Council.
- Gifts should only be accepted by staff in exceptional circumstances.
- The Councils disciplinary procedures may be applied where it is found that breaches in the Code have occurred.

The **PROVEIT** test: to help officers determine whether or not the offer is acceptable:

<b>PURPOSE</b>	Token, thanks or seeking a favour? (token or thanks: yes, gift could be accepted; favour: no, it cannot)
<b>RULES</b>	What are they? Does this situation conform? (yes, complies with the rules, gift could be accepted).
<b>OPENNESS</b>	Is the offer transparent? (yes, gift could be accepted)
<b>VALUE</b>	Expensive or inexpensive? (expensive items would always need to be declared)
<b>ETHICS</b>	Does the offer fit with public-sector ethics? (yes – gift could be accepted)
<b>IDENTITY</b>	Consider who has made the offer – is it appropriate?
<b>TIMING</b>	Are you about to make a decision affecting the giver? (if so it is unlikely that any gift or offer of hospitality should be accepted)

**In all cases, offers of gifts and/or hospitality must be declared on the appropriate form, whatever the outcome of the PROVEIT Test.**

## **Gifts and Hospitality – Supplementary Notes of Guidance**

### **1. Generally**

- (1) This note supplements the Councils approved Code of Conduct relating to the offer and/or acceptance by staff of gifts and hospitality of whatever nature from outside individuals or organisations.
- (2) Within the terms of the Code and this supplementary guidance, staff are expected to exercise common sense. If staff are in any doubt they must consult their line manager/team leader and in every case declare the offer and/or acceptance of a gift or hospitality in the register kept by their Directorate, using the purpose designed 'Declaration of Gifts and Hospitality' form.
- (3) The process set out in this note is designed to safeguard employees from any misunderstanding or criticism.
- (4) The general principles which govern gifts and hospitality are:
  - (a) offers of hospitality should only be accepted if there is a genuine need to represent the Council;
  - (b) gifts should only be accepted in **exceptional** circumstances.
- (5) The Code of Conduct applies to all permanent employees, temporary employees and consultants employed by the Council
- (6) To determine whether a gift or hospitality is acceptable, the 'PROVEIT' test should be applied by staff and referred to the Corporate Director if in doubt.
- (7) If a member of staff suspects that the offer of a gift or hospitality is intended to influence their actions then this must be reported immediately to their line manager/team leader for appropriate action.

### **2. Hospitality**

The following principles should be followed in deciding whether or not to accept hospitality:-

- (1) (a) staff should ask themselves whether members of the public, knowing the facts of the situation, could reasonably think that staff might be influenced by the hospitality offered. If the answer is yes, the hospitality should be declined. In making judgements relevant facts to take into account include the person or organisation offering the hospitality, its scale and nature, and its timing in relation to decisions to be made by the Council.
- (b) care should be taken to avoid situations in which an individual member of staff is the sole person invited to partake of hospitality



or where it creates a pattern of receiving hospitality from that organisation.

- (2) Examples of when it may be proper to accept hospitality (always depending upon the particular circumstances) are as follows:-
  - (a) attendance at conferences, events and demonstrations of equipment organised by outside bodies where other local authorities or governmental organisations are represented and there is a corporate or service interest;
  - (b) attendance at events or functions where there is a demonstrable need for the Council to be represented to either give or to receive information or to participate as part of West Suffolk's corporate image;
  - (c) attendance at events or functions which are part of the civic, cultural or sporting life of the Council
  - (d) working lunches where this is an appropriate and effective way of conducting business and the refreshments provided are on a reasonable level.
- (3) **Overnight hospitality** linked to any of the above **should only be accepted where it is essential in order to attend the event**

### **3. Gifts**

- (1) **All personal gifts should be refused or donated to charity unless they come within the categories set out in 3(2) or 3(3) below.**
- (2) Gifts of the following type may be accepted:-
  - (a) modest gifts of a promotional character, eg calendars, diaries and other similar articles. See also point 4; and
  - (b) gifts on the conclusion of any courtesy visit to an outside organisation of a sort normally given by that organisation.
- (3) Gifts which are intended for West Suffolk as a corporate body or intended for a service area can be accepted but must not be retained by the individual who receives them. Such gifts should be deposited with the service area concerned or the Chief Executive's office as appropriate.

### **4. Registration of Gifts and Hospitality**

- (1) Staff must register the interest as soon as possible (the general expectation would be that under normal circumstances this should be no later than 28 days) of receiving any gift or hospitality or the offer of any gift or hospitality, provide written notification to the Director of Service/Strategic Director/Section 151 Officer using the 'Declaration of Gifts and Hospitality' form, Appendix B.

- (2) The Declaration of Gifts and Hospitality forms must be completed in full, setting out full details of the offer or the gift and or hospitality received as well as:
- (a) estimated or actual value;
  - (b) an indication from the officers' line manager as to whether acceptance of the offer is authorised or refused;
  - (c) the employee's printed full name (not typed) and signature; and
  - (d) the Director of Service, Strategic Director or Section 151 Officer printed full name (not typed or pasted) and signature.
- (3) In respect of the Council's Leadership Team, details of **all offers** that have been received, whether **accepted or declined**, should be recorded in case of any queries, in particular through FOI requests.

## **5. Monitoring**

Each service area is responsible for ensuring that they have collated information on gifts and hospitality for all staff in each of their divisions.

An annual briefing paper will be produced by the Chief Executive's Office for Leadership Team once registers have been reviewed by the service areas, reporting upon outcomes arising from monitoring the registers. The paper will include information on the number of offers of gifts / hospitality, number of offers that were declined, or that were offered to charity, types of gifts and hospitality, along with identifying any concerns/issues that need to be taken up with appropriate senior officers for action.

## **6. Penalties for breaching the Code**

The Councils disciplinary procedures may be applied where it is found that breaches of the Code have occurred.

## **7. Retention of Documentation**

Documentation in the Register's will be kept for six years. Service areas will be responsible for destroying all returns that are over six years old.

**GIFTS AND HOSPITALITY REGISTER - OFFICERS**

**SERVICE AREA:**

**PERIOD: \***

**to \***

<i><b>Date of Offer</b></i>	<i><b>Employee name</b></i>	<i><b>Details of gifts or hospitality Offered, including estimated or actual value</b></i>	<i><b>Person or Organisation making offer</b></i>	<i><b>Accepted or Rejected or Donated to Charity</b></i>	<i><b>Name of line manager offer discussed with</b></i>

**I confirm that all Officers in the above division have been asked to provide details of gifts and hospitality, or offers of such, during the above period**

**Name:** .....

**Signed:** .....

**Director of Service/Strategic Director/Section 151 Officer**

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## **West Suffolk Council**

### **Member/Officer Protocol**

Effective working between Councillors and Officers is critical to the effective running of a Council. Together, they form an essential skills and knowledge base; their roles are very different, but need to work in a complementary way.

The purpose of this Protocol is to develop a clear understanding of the role of Councillors and Officers; clarify the relationship and provide avenues to resolve matters when things go wrong.

This Protocol is not intended to provide a comprehensive guide to all situations that Councillors and Officers may encounter. Instead, it should be seen as a set of principles that should help provide guidance on how to deal with situations, and should be considered in conjunction with the respective Codes of Conduct that apply to both Members and Officers.

#### *Roles*

Members are elected to serve their public. They are accountable to their electorate, and to the Council. They are expected to comply with the Code of Conduct, and guidance provided to them. Officers are responsible to, and employed by the Council. They should act in accordance with their own Code of Conduct and relevant policies and procedures.

The role of Councillor and Officers can overlap; in evaluating performance of the Council and ensuring services are effectively delivered to the public; in responding to queries and resolving community challenges, or in making decisions on how to deal with challenging issues. A collaborative approach, based on a positive working relationship, is the most effective way to support each other.

In general, Councillors set the strategies and high level policies of the Council, including the Council's overall strategic plan and budget requirement; they are not expected to be involved in the day-to-day running of the many services the Council provides. Once Councillors have set the strategic framework, the Council employs staff, known as officers, to run the Council's activities and operations in the way that they consider appropriate. The Council operates an executive-leader model of governance, whereby particular Councillors will operate as "portfolio holders" for services and will be accountable to their peers for how those services are being delivered by the Council's Officers.

Both Officers and Councillors can be authorised (delegated) to make decisions on behalf of the Council. However, there are limits placed on what decisions can be

delegated through the Council's constitution and Councillors and Officers should respect the authority of their own limits, and not make commitments that cannot be kept. All decisions should be justified and subject to appropriate recording to ensure all decision making is transparent and legitimate. Both Councillors and Officers must respect the need to ensure any personal conflicts they have in a decision that will be made are appropriately disclosed and resolved.

The Council actively encourages positive dialogue between Members and Officers to assist in developing relationships and sharing information on issues that affect the Council.

#### *Basic Principles of Councillor – Officer Working*

The following principles should be used as a basis for effective working relationships:

- Operate an atmosphere of mutual trust and respect
- Understand the role, knowledge and insight that each other has
- Challenge should be constructive
- Communication should be clear and unambiguous
- Both sides should avoid poor, negative, aggressive or obstructive behaviour

#### *What can Councillors expect from Officers?*

Officers are required to serve the whole Council. They are expected to provide reasonable support and assistance to Councillors, but would not be expected to provide more general administrative support, unless they were specifically employed to do so.

Officers are expected to be courteous towards Councillors, recognising that Councillors are elected representatives of their electors. Officers should not force their own personal issues on to Councillors, nor to advance political causes. They should acknowledge that Councillors are often busy people, and not put them under undue pressure to respond to issues; officers should raise relevant matters with councillors on a timely basis and proactively engage with them on appropriate matters.

#### *What can officers expect from Councillors?*

Councillors should respect the role of the officer, and not seek to put undue pressure on officers to take particular action against their professional opinion or Council policy / procedure. Councillors should respect that officers often have demanding roles and competing priorities, and not put them under undue pressure to respond at short notice to complex issues, or address matters urgently that may not be of priority. Officers should not be unfairly pushed to advocate political views, to overstep their delegated authority.

Councillors should actively seek the advice and opinion of officers on matters relevant to their role, but not use the opinions of officers for political or personal gain. Councillors may make recommendations and suggestions to Officers, but should also seek to respect their professional opinion and may not require officers to amend reports or correspondence against the Officers' professional judgement.

#### *New Councillors and Officers*

Entering into a new Council can be a daunting environment. Councils all have their own unique practices, which new Councillors and Officers may not be familiar with. It is particularly important that Councillors and Officers work to support each other as they learn about the practices that operate at the Council, and in their journey in the Council. Councillors and Officers are both encouraged to be inquisitive, and to seek support and help to learn more about the Council.

#### *Support to Executive Members and Committee Chairs*

The Leaders, Cabinet Portfolio Holders and Committee Chairmen will necessarily need to maintain a close watching brief on matters that may fall within their domain.

As a result, Officers and postholders may seek to establish regular briefings and informal discussions to discuss emerging or sensitive matters. Such discussions would usually be confidential, albeit when possible to do so, relevant subject matter information will be shared with other members who may have a need to be informed.

Any such briefings should not pre-empt or undermine the decision making processes of the Council, which should be respected. Where officers and Councillors are delegated to make decisions, then they may find it useful to brief and consult with other Councillors before exercising their delegation.

#### *Political Groups*

Groups are a recognised part of Council working. There are statutory requirements in respect of how they are formed, and it is common practice for groups to discuss matters before a Council decision is made.

Political groups cannot make decisions, and Officers are not obliged to operate in line with the wishes of a group meeting. Political groups can support the work of the Council through:

- Ensuring their Members are briefed on important issues.
- Raising collective concerns or development needs through appropriate officers to resolve in a co-ordinated way.
- Supporting their Members, particularly new Members, in understanding the requirements placed on them in their role in the Council and the protocols and practices they are expected to comply with.

- Supporting the Council in ensuring high standards of conduct are upheld by the members of their group.

Officers may request to attend political group meetings, or groups may request an officer to attend. Wherever possible, all such requests will be complied with, however no officer is obliged to accept an invitation to a group meeting and similarly, no Officer is entitled to insist on attending a meeting.

If in attendance at a group meeting, Officers may present information and provide their professional opinion. However, they are entitled not to discuss or advise groups on other matters, and are not required to act on, or take into account the views and the decisions of the group.

Officers who attend more than one group meeting should not divulge any discussions to members of other groups. It is expected they will discuss the views of any political group meeting they have attended with other officers working on relevant matters. Should notes be taken of group meetings, it would be expected officers have the opportunity to verify any comments they make in that meeting (this does not entitle Officers to see all notes taken at group meetings).

#### *Independent Members*

Some Members of the Council may decide not to form part of any political group. Many of the same working practices will operate with independent members as with political groups; so, for example, officers may request to meet with independent members to brief them on issues, and independent members may also request meetings with officers.

#### *Where the relationship goes wrong*

Unless there is evidence of serious wrongdoing on the part of either an officer or councillor, it would usually be expected that councillors and officers will work together in an amicable way to resolve differences of opinion so that lasting working relationships can be re-formed. Councillors and officers should seek to raise issues promptly, to ensure these can be quickly resolved and not escalate.

Councillors and officers should, as a principle, avoid personal attacks or abuse of each other, particularly at meetings or on social media. All criticism and challenge should be constructive and well founded, with evidence to support challenge made.

Where a Councillor is concerned about the action or behavior of a senior officer, they should seek to discuss this in the first instance with the officer to understand what has happened, and why. If they remain dissatisfied, then they may raise this with the officers' relevant Service Manager, Director, Strategic Director or Chief Executive to further investigate the matter. In relation to junior officers, it may be more appropriate to refer the matter to the Service Manager in the first instance rather than seeking to raise this directly with the officer directly.



Where an Officer is concerned about the actions of a Member, then they should seek to raise this with their Service Manager. Either the Officer (if they remain concerned), or the Manager, may seek to raise the matter with the Monitoring Officer and the Chief Executive. It would usually be expected that discussion would take place with the Councillor to understand what has happened and why, which may also result in officers seeking to discuss any concerns with the relevant group leader. In the most serious of offences, the Monitoring Officer may find it necessary to progress the matter as a breach of the Code of Conduct.

#### *Use of Resources*

Council resources should be used for Council purposes only. In particular, Council resources should not be used for personal or political gain. Council resources may not be used for electoral purposes except where allowed by law.

Councillors have the right to visit and use the premises and facilities of the Council offices. They should do so in a sensible manner and are required to comply with any safety or security requirements, including training and induction of buildings where appropriate, and should not interfere in the delivery of services by other partners who may occupy the premises.

#### *Local Member Protocol*

Members should be informed about matters that affect their wards for example community events, activities with community groups, new developments. Each member of staff, when dealing with a local issue, has the responsibility to keep the councillor informed on a timely basis, and ensure their views are taken into account when a decision is made.

Members would not normally be informed regarding personal applications and entitlements of individuals that are considered to be in the normal course of business. For example, local members would not be informed about new applicants for housing; individuals claiming council tax support, or day-to-day monitoring of food business.

On occasions, the Council's Executive may be considering a particularly sensitive matter or transaction within a local Members' wards. It would be expected that wherever it is feasible to do so, the local Members will be informed before a decision is made, and informed of the relative levels of confidentiality relating to the issue.

When a public meeting is being arranged by the Council to consider a local issue, all Members representing that area should be invited to the meeting. If they are unable to attend, Officers should ensure they are updated on a timely basis following the meeting. Similarly, all local consultations should allow local Members to contribute.

Where a Councillor or Officer is dealing with a matter related to an individual within a locality, they should ensure that the individual is aware if their personal details are likely to be shared with the Council or Councillor. Any sharing of personal data should only be undertaken in line with the Data Protection Act; it must be fair to share the information and where possible anonymised as far as possible, for example through the use of phrases such as “a local resident” rather than the name of the resident.

#### *Members Access to Information*

Members have an enhanced right to information when compared to members of the public. This entitles them to have access to confidential papers being considered by committees, and to consider background material relating to decisions that have been made, as set out in the Council’s Access to Information Procedure Rules. However, this does not entitle members to receive all information in the possession of the Council and in particular, it is normally expected that the Council’s Executive is afforded a “safe space” in which to develop policy and formative plans/policies would not be shared more widely with Councillors without the consent of the executive. The Council may also hold information on behalf of other organisations that officers are not permitted to share with Councillors, or may have to confirm with the organisation whether they have permission to share.

As above, Councillors may need to access information regarding individuals in order to enable them to help resolve issues raised by local residents. However, if it is not clear that the individual has consented to their data being shared with the Councillor, or there is no other legitimate reason for providing the data to the Councillor, it may be necessary to seek to obtain consent from the individual concerned. Any queries regarding the sharing of personal data with Councillors should be referred to the Council’s Data Protection Officer.

If there is a query whether a Member should be provided with access to a particular document, then this should be referred to the Chief Executive or Monitoring Officer.

#### *Correspondence*

Councillors and Officers are entitled to handle correspondence in their own name and title. However, they may only purport to be acting on behalf of the Council, or express the opinion of the Council, where they have appropriate authority to do so by virtue of the scheme of delegation, as a result of a decision made by the Council, or by legal authority.

#### *Publicity and Press*

Officers in the Council’s Communications Team will proactively issue press releases, or post on social media, as well as reacting to press and social media enquiries. Except in a pre-election period, any quotations included within Council statements will be issued in the name of an appropriate Member, usually the Leader of the

Council or a Portfolio Holder in responding to a matter of Council policy, or local members in relation to a local issue.

Councillors are entitled to respond to press enquiries. It is helpful to inform the Council's Communications Team Officers of all such enquiries and requests for statements, who can assist in ensuring responses are factually accurate and provide general support to members in responding to enquiries.

During a pre-election period (commonly referred to as Purdah), the Council is obliged to be particularly sensitive in its communications. The Council should not draw attention to any candidate, or take action that may sway public support towards a candidate or party in an election. During this period, press statements may include quotations from a "Council spokesperson" but the Council would not normally seek to respond to requests for interviews or personal statements unless it is in the public interest to do so.

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## **West Suffolk Council**

### **West Suffolk Planning Code of Practice**

#### **Purpose**

This Code has been prepared to demonstrate the Council's commitment to transparency and openness in the determination of planning applications, to ensure that in the planning process decisions are made in a way that is fair, impartial and well founded, with justifiable reasons.

#### **Application**

This Code of Good Practice applies to members at all times when involving themselves in the planning process (including, where applicable, decision making meetings of the Council whenever they exercise the functions of the Planning Authority in determining applications and other issues, or when they are making representations as local members). It applies as equally to planning enforcement matters as it does to planning applications. If you have any doubts about the application of this code to your own circumstances, you should seek advice from the Monitoring Officer as soon as possible.

#### **Relationship to members' Code of Conduct**

The members' Code of Conduct takes precedence over this Planning Code of Practice.

Councillors should always seek to be open about interests they hold. If councillors do have an interest in an application, they should make this clear at the relevant committee.

#### **Development proposals and members' interests**

Where members have a pecuniary interest, by law, they should not take part in any committee discussions or decision making processes in relation to the application. A pecuniary interest would include situations where it is their own, or their spouse's planning application, a business they own is applying for planning permission, or an organisation they work for is applying for planning permission (reference should be made to the member Code of Conduct and any declared pecuniary interests that the member has). Members may find it helpful to appoint a third party or agent to act on their behalf in any of their own applications to avoid any impression that they are seeking to place undue pressure on decision makers. Members should ensure they notify the Monitoring Officer and the Planning Department as soon as they know when a pecuniary interest they hold is likely to apply for planning permission.

There are situations where members may not have a pecuniary interest in the application itself, but they do have an interest that otherwise is so significant that a reasoned member of the public may believe that they are likely to be biased for or against the application. In these situations, the councillor should consider whether they can be objective when considering the application, and if

they consider that is not possible, ensure that relevant officers and members are aware of their situation and not to involve the member unnecessarily within it.

These situations could include occasions where a member is part of an outside organisation, whether they have sought that nomination themselves or are appointed by the Council (including appointments to the Council's own companies). Participation in decision-making in such situations could lead to concerns regarding predetermination or bias (see below).

In such situations, members may still submit representations and attend Committee to support or oppose the application but they should ensure that whenever they do so, they make clear it is in a personal capacity and not refer to themselves as councillors.

If any member has concerns about their own personal situation and extent to which they should be involved in an application, then they must consult with the Monitoring Officer, preferably before any committee meeting to consider the application.

Where a member has decided not to engage with a planning application due to their personal situation, they may appoint another local member to act as local Member in relation to the application. The member should notify the relevant Case Officers, and any other parties who are contacting them about the application who is acting as local member as soon as possible.

### **Predetermination**

Members taking part in decision making on planning applications must have an open mind. Members are entitled to have an opinion (be predisposed) or change their minds, but if a fair minded and informed member of the public may think there is a real possibility you are biased, or have a closed mind on the application because of anything you have said or done you should not take part in the decision. If you do take part, you could put the Council's decision at risk. For this part, a fair minded and informed person is someone who is independent of the situation and has opportunity to consider the facts of the situation.

Predisposition is not the same as predetermination. It occurs where a councillor is inclined to favour a certain view but is still open to considering the facts of the situation. For example, a councillor may be more inclined (predisposed) to favour applications that demonstrate compliance with the council's own planning policies but on occasions they may support applications that do not fully comply. This is acceptable, and councillors have no need to declare an interest where they are predisposed.

Members are not predetermined simply by virtue of having considered the application before, whether at a previous Development Control Committee, a parish or town council meeting or by having made a decision on very similar applications. However, members do have a duty to consider each application at hand independently and take into account all material factors at the time they make their decision, demonstrating an open mind at all stages. They should be aware of comments they have made in public meetings, or have been reported as saying, and what impression this may give to both the public and applicants

about their state of mind. If they are called on to give a formal opinion on an application prior to the development control committee it is helpful for members to make clear their position on the committee and the need to reserve or caveat their judgement appropriately, or that they would like to keep an open mind and not comment on the application at that stage.

Where the Council (or another council the member is elected to) is the landowner or the applicant, members should be mindful of the position they have taken on previous decisions but again are not necessarily predetermined. It is well established in law that the Council can determine its own application, but again members should demonstrate that they have an open mind on the application and are considering the application based on material planning reasons only.

Where you consider you may be predetermined, make clear that is the case and remove yourself to the public area of the committee meeting when the application is considered. You do have the right to speak as Ward Member, but again bear in mind that as a Ward Member you have a duty to represent your ward and you may not be able to do so objectively if you are predetermined. If you consider there is a perception you could be predetermined, but you do not consider yourself to be, you are also expected to declare this to the Committee in the declarations of interest part of the meeting and make clear why this is not the case.

### **Where the Council is both the local planning authority and developer**

Any applications made by or on behalf of the Council are considered by the Development Control Committee to ensure there is appropriate public transparency in the way that the Council determines its own applications.

However, the Council is also under a duty to ensure there is functional separation between those bringing forward a development, and those who will determine any proposal.

It is therefore advisable that any member who has functional responsibility for the development proposal, such as the Cabinet member responsible for the relevant application, or any other members who have actively promoted the development in other forums, should declare an interest and withdraw from the Development Control Committee when a decision is made.

For clarity, members that have simply expressed support or opposition for a business case for a Council development at meetings such as Cabinet or Council, whether having spoken or voted in favour of the development at those meetings, are allowed to participate fully in the Development Control Committee considering the planning merits of the proposal.

### **Acting as a member of the Development Control Committee where you are also the Ward Member**

As above, members of the Development Control Committee must seek to retain an open mind up to the point where a decision is made.

This can be challenging when you are the local Ward Member. Ahead of the meeting, it is important that you make clear your role on the Committee to local residents and the need to avoid predetermining yourself. You can still inform individuals and groups as to how they can put forward their own views.

At the Committee, you are entitled to speak as local member in the specified slot. This is intended to allow you to articulate the views from across your communities and your local insight, whether that represents your own views or not. As long as you remain open minded on the application, you may take part in the main Committee debating and voting on the application.

An adjacent Ward Member may act on behalf of and with the approval of the Ward Member(s). If acting in this capacity as an adjacent Ward Member, whilst also being a member of the Committee, members must equally demonstrate an open mind during the debate.

### **Lobbying**

Lobbying is a normal part of the planning process and may be by both supporters and/or objectors of the application.

Councillors need to make clear to lobbyists that whilst they can hear their arguments, you cannot express a firm view on the application as otherwise it may prejudice your ability to take part in the Development Control Committee.

Local members can play an important role in helping lobbyists understand those factors the Council can and cannot take into account, when determining planning applications, and how they may be able to more effectively express their views. This does not mean that the local member supports or opposes the views of lobbyists.

The Code of Conduct requires councillors to make declarations where they are in receipt of gifts or hospitality where its value is over £25 (or equivalent value). However, in general, councillors should try to avoid receiving gifts and hospitality, especially from applicants or objectors to applications, due to the impression that this can give.

Councillors sitting on the Development Control Committee must avoid leading or generally taking part in lobbying groups. Further, Development Control is a quasi-judicial regulatory process; it is not political, not subject to "whipping" arrangements and members should not encourage a political steer to be given or taken on an application.

### **Contact with applicants/developers**

It is recognised that local members can play an important part in the planning process, helping developers to understand local needs and demands, as well as local concerns about development and how these can be addressed. As such, it is expected that local councillors will discuss emerging applications with developers.



However, close relationships between councillors and developers can give a wrongful impression. Any applicants who approach councillors directly should be referred to the Planning Department to initiate discussions. Where councillors do have one-to-one contact with developers, they should make clear their role as a councillor and that they are primarily gathering information related to the application and it is good practice to inform the case officer where meetings / discussions have taken place (for example, where a local member discusses an application which has been recommended for refusal) to ensure there is a record of such discussions for transparency purposes.

Councillors can, where invited, attend meetings organised by officers, or attend where officers are present with the applicant when it is appropriate. Notes of such meetings should be retained to ensure there is a clear record of matters discussed and no party should over-commit the Council to supporting an application.

Councillors have a duty to act with appropriate confidentiality. Where councillors are informed regarding pre-application discussions, they should respect the confidentiality of such discussions and any information they are provided with. Officers will not normally consult or liaise with local members on pre-application discussions although they may inform the applicant of the need to discuss particularly sensitive/controversial issues which will have a significant impact on local communities with the local members.

Local councillors can attend local public meetings or developer exhibitions to gain greater understanding about applications and ask questions. They may also take soundings from the public at such meetings but should avoid predetermining themselves.

If a councillor receives unwarranted and unreasonable contact from a developer, they should immediately inform the Director (Growth and Planning) or the Service Manager (Planning Development).

### **Working as a developer, agent or lobbyist**

Councillors do have professional and personal lives. At times, a councillor's professional or personal life may cause conflict with their Council role, such as if a Councillor working for an architect's firm that regularly submits planning applications to the authority.

It is not advisable that councillors whose professional role regularly causes conflict with regards planning applications should sit as a standing member or substitute of the Development Control Committee. Similarly, if a councillor is involved with a planning application in their ward on a professional level, it is advisable for them to appoint an acting local member to support residents due to the potential conflict this could create.

Councillors on the Development Control Committee should not act as a lobbyist or advisor on applications and should not take on paid employment to advise on how to influence other members of the Committee.

If any councillor has been approached or is seeking work as a developer, agent, lobbyist or advisor with regards matters in the scope of the Development Control Committee they should inform the Monitoring Officer and Director (Growth and Planning) before agreeing to such roles to discuss potential conflicts this may create and how these should be avoided.

### **Member/officer relations**

Members should not put pressure on Officers to put forward a particular recommendation. Councillors can put forward alternative views as part of a representation on the application but again need to be mindful of predetermination.

Officers are part of a management structure. If members have a concern about how an officer is handling an application, they should seek to raise those concerns with their line manager. Councillors should respect that as Officers, they are duty bound to put forward their professional opinion, in line with the relevant officer and professional Codes of Conduct even if it is at odds with the views of the Committee or its members.

Local members may request that applications are referred for Committee decision, rather than being delegated to officers. If an application in the member's ward is being considered by the Delegation Panel, members should provide their views on a timely basis and attend the Panel meeting if they can. If councillors believe a proposal should go to Committee, then reasons for this should be clearly recorded and relate to material planning matters, and not just personal opinions or weight of local feeling.

### **Knowledge and training**

Members should ensure they familiarise themselves with the application ahead of the Committee meeting. If members have questions, they should take the opportunity to ask questions of officers to understand the proposals. It is helpful that if members have concerns that have not been addressed within Committee reports they seek to raise this with officers in advance of the Committee in order that responses can be provided to inform the decision.

Members of the Committee should be proactive in keeping up-to-date with any changes in the planning framework, including government guidance, the local plan and supplementary documents. Planning is a regulatory function and poor decision making can be of detriment to the Council and local residents as it risks applications being dealt with through the appeals process rather than within the local authority's control. In addition, planning decisions can be subject to legal challenge.

To demonstrate their commitment to ensuring sound decision making, Committee members and named substitutes will undertake compulsory training, to consist of at least one session in each six month period that meets one of the following criteria:

- A training or briefing session organised by Council officers, which officers\* indicate is accredited training.
- A training session organised by a relevant organisation (normally Royal Town and Planning Institute, the Planning Advisory Service, the Local Government Association or another Council), attendance having been approved by Officers\*.
- Online learning approved by officers\*.

(\*Officers shall mean the Chief Executive or a Strategic Director; the Monitoring Officer; the Director (Growth and Planning) or the Service Manager (Planning Development).)

If a councillor has not received the requisite training and is thus not considered accredited to sit on the Development Control Committee, they should seek a substitute member for all Committees until they have received training. In exceptional cases where the Committee would not otherwise be quorate, the Monitoring Officer or Legal Officer present at a Development Control Committee may waive the compulsory training requirement for any individual Member.

In addition to Committee members, all members will be called upon to act as local members on applications, and to be at their most effective should ensure they take steps to keep themselves informed and up-to-date. It is therefore expected that all councillors should undertake training at least once a year in line with the approach outlined above for Committee members.

## **Site Visits**

Members of the Development Control Committee should try to attend all site visits organised by the Council. The site inspection should be treated simply as an inspection; councillors may seek further information from officers and observe the site but should not engage with, or seek information about the application from the applicant, objectors or any other third parties.

Councillors should avoid expressing clear opinions or views at site inspections and reserve judgement until the Committee.

Councillors on the Development Control Committee should avoid lone site visits, even if they were unable to attend the organised site inspection. If a councillor considers it necessary to conduct a site visit and cannot attend the organised event, they should seek to contact the case officer to understand whether any existing additional visits are anticipated (officers are not expected to organise additional visits for councillors). Councillors may also seek to review sites themselves, but should safely remain on publicly accessible roads and paths and should not enter onto the physical application site themselves to avoid any impression of unfairness.

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## **West Suffolk Council**

### **West Suffolk Licensing Code of Practice**

#### **Objective**

This Code has been prepared to demonstrate the Council's commitment to transparency and openness in the determination of licensing applications, to ensure that decisions are made in a way that is fair, impartial and well founded, with justifiable reasons.

#### **Application**

This Code of Good Practice applies to Members at all times when involving themselves in the licensing process (including, where applicable, decision making meetings of the Council when exercising licensing functions, or when they are making representations as local members). It applies as equally to licensing enforcement matters as it does to licensing applications. If you have any doubts about the application of this Code to your own circumstances you should seek advice from the Monitoring Officer as soon as possible.

#### **Relationship to Members' Code of Conduct**

The members Code of Conduct takes precedence over this licensing Code of Practice. Where this Code may conflict with the Code of Conduct, it is the Code of Conduct requirements that should be adhered to.

Councillors should always seek to be open about interests they hold. If Councillors do have an interest in an application, they should make this clear at the relevant Committee or to Officers at the appropriate time and act accordingly.

#### **Licensing and Members' Interests**

Where Members have a pecuniary interest, by law, they should not take part in any Committee discussions or decision making processes in relation to the application. This would usually apply where a Member applies for a license personally, or the Council is the licensing authority in relation to a premises they have a financial interest in. Members may find it helpful to appoint a third party or agent to act on their behalf in any of their own applications to avoid any impression that they are seeking to place undue pressure on decision makers. Further, if the decision making is delegated to Officers, the Councillor should take no part in how the licence is considered.

The Member should ensure they notify the Monitoring Officer and the Licensing Team as soon as they know when a pecuniary interest of theirs is likely to be applying for a licence or is having enforcement action taken against it.

There are situations where Members may not have a pecuniary interest in the application itself, but they do have an interest that otherwise is so significant

that a well-informed member of the public may believe that they are likely to be biased for or against the application. In these situations, the Councillor should consider whether they can be objective in acting with relation to the application, and if they consider that is not possible, ensure that relevant Officers and Members are aware of their situation and not to involve the Member unnecessarily within it.

In such situations, Members may still submit representations and attend Committee to support or oppose, but they should ensure that whenever they do so, they make clear it is in a personal capacity and not refer to themselves as Councillors.

If any Member has concerns about their own personal situation and extent to which they should be involved in an application, then they must consult with the Monitoring Officer, preferably before any Committee or hearing to consider the application.

Where a Member has decided not to engage with a licence application due to their personal situation, Members may appoint another local Member to act in this case. Members should inform the relevant Officers as soon as feasible where this is the case. This might apply where, for example, residents are concerned about a licenced premises which the Councillor regularly frequents.

### **Predetermination**

Members taking part in licensing decision making must have an open mind. Members are entitled to have an opinion (be predisposed) or change their minds, but if a reasonable member of the public may think you are biased, or have a closed mind on the application because of anything you have said or done you should not take part in the decision. If you do take part, you could put the Council's decision at risk.

Members are not predetermined simply by virtue of having previously considered the application before, or by having made a decision on very similar applications. Members do have a duty to consider each application at hand independently, and take into account the relevant factors and licensing considerations at the time they make their decision.

Where the Council (or another Council the Member is elected to) is the applicant Members should be mindful of the position they have taken on previous decisions but again are not necessarily predetermined. It is well established in law that the Council can determine its own applications, but again Members should demonstrate that they have an open mind on the application and are considering the application based on licensing considerations

Where you consider you may be predetermined, make clear that is the case and do not offer to be part of any sub-committees hearing the application. You do have the right to speak as Ward Member, but again bear in mind that as a Ward Member you have a duty to represent your ward and you may not be able to do so objectively if you are predetermined.

## **Lobbying**

Lobbying may be undertaken by those for, and against a particular licensing issue.

Councillors need to make clear to lobbyists that whilst they can hear their arguments, you cannot express a firm view on the application as otherwise it may prejudice your ability to take part in a hearing. Members should report any persistent or unreasonable lobbying to the Licensing Officer and the Monitoring Officer.

Local Members can play an important role in helping lobbyists understand those factors the Council can, and cannot take into account when making a decision, and how they may be able to more effectively express their views. This does not mean that the local Member supports or opposes the views of lobbyists.

The Code of Conduct requires Councillors to make declarations where they are in receipt of gifts or hospitality where its value is over £25 (or equivalent value). However, in general Councillors should try to avoid receiving gifts and hospitality, especially from licensees or objectors, due to the impression that this can give.

Councillors sitting on the Licensing and Regulatory Committee should avoid memberships of organisations whose purpose includes lobbying in relation to licensing regulation and objectives. Licensing is a regulatory process; it is not political, not subject to "whipping" arrangements and members should not encourage a political steer to be given or taken on an application.

## **Contact with Applicants/Licensees/Businesses**

It is recognised that local Members can play an important part in the licensing process, understanding local concerns, helping individuals understand the licensing objectives, and engaging with licensed premises to encourage good practice. It is also accepted that local Councillors have a private life, which may result in them using licensed facilities, or interaction with licensees (e.g. using local taxi firms or visiting pubs)

However, close relationships between Councillors and applicants / licensees/ businesses can give a wrongful impression. Any applicants who approach Councillors directly to discuss an application or enforcement issue should be referred to the licensing department to initiate discussions and Councillors should make clear that their role is to gather information.

Councillors can, where invited, attend meetings organised by Officers, or attend where Officers are present with the licensee when it is appropriate. Notes of such meetings should be retained to ensure there is a clear record of matters discussed, and no party should over-commit the Council to supporting a position.

Councillors have a duty to act with appropriate confidentiality. Where Councillors are informed regarding potential issues regarding a licensee, they should seek to respect the confidentiality of such discussions and any information they are provided with. Officers may be in a position where they

cannot engage with local Members regarding a licensing matter, particularly where it may result in a prosecution, although will endeavour to inform local Members in relation to issues which may have local controversy or have a significant impact on the local area.

Local Councillors may take soundings from the public but should avoid predetermining themselves. Members who may sit on a licensing hearing should avoid meeting applicants or visiting premises unless it relates to their local Ward as it could lead to inappropriate lobbying or an impression of unfairness being given.

If a Councillor receives unwarranted and unreasonable contact from a licensee, they should immediately inform the Director (HR, Governance and Regulatory) or the Service Manager (Environmental Health).

### **Member/Officer Relations**

Members should not put undue pressure on Officers to put forward a particular recommendation. Councillors can put forward alternative views as part of a submission but again need to be mindful of predetermination if they are ultimately part of a decision-making process.

Officers are part of a management structure. If Members have a concern about how an Officer is handling a licensing matter, they should seek to raise those concerns with their line manager. Councillors should respect that as Officers, they are duty bound to put forward their professional opinion, in line with the relevant Officer and professional Codes of Conduct even if it is at odds with the views of the Committee or its Members.

There are legal and constitutional restrictions on who may make licensing decisions, and how they should be determined. Councillors and Officers should seek to respect these established practices to ensure that Council decisions are not compromised.

### **Consultations**

Licensing and associated policies are subject to regular review, which will include periodic consultation. The Licensing and Regulatory Committee acts as a consultee in the development of policies in assessing the potential merits, and dis-merits of changes in policies across the Council as a whole.

Members will also play an important role during any consultation in ensuring that local communities are aware of proposed changes and how they can input to the consultation. Members will help to articulate community views and may also respond to such consultations from their perspective. It is helpful, in doing so, for Members to ensure they are familiar with the relevant licensing law and requirements, and to raise any queries with Officers to ensure they are clear about what is feasible within the law.



## **Committee Hearings**

Members are required to familiarise themselves with the application and its relation to the licensing objectives ahead of any decision making meeting. If Members have questions, they should take the opportunity to seek clarification with officers. It is helpful that if Members have concerns that have not been addressed within Committee reports they seek to raise this with Officers in advance of the Committee in order that responses can be provided to inform the decision.

If Members feel there is insufficient time to digest new information or they do not have the information at hand to make a decision, they may propose to defer the application but the expectation should be that otherwise, Members would seek to support or refuse an application at Committee. It is important that all questioning at Committee relates to the relevant matters and licensing objectives, and does not drift into immaterial points. By convention, local Members are not asked to sit on hearings to ensure impartiality in consideration.

The Committee would usually seek to adjourn and confer before reaching a decision. Only the Committee, its Legal Advisor and Clerk may be present at this time, to ensure there is no perception of inappropriate influencing at the time the decision is made.

## **Knowledge and Training**

Members of the Committee should be proactive in keeping up-to-date with licensing developments, including government guidance, changes in council policy and changes in legislation. Licensing is a regulatory function and poor decision making can be of detriment to the Council, local businesses and local residents.

To demonstrate their commitment to ensuring sound decision making, Members will be unable to sit on the Committee unless they have received the mandatory training requirements set out below.

Committee Members and named substitutes will undertake at least one training event in each six month period. Any Members sitting on a hearing must have attended a specific training session on hearings within the past 12 months. Training must meet one of the following criteria:

- A training or briefing session organised by Council Officers, which officers indicate is accredited training.
- A training session organised by a relevant organisation, attendance having been approved by Officers.
- Online learning approved by Officers.

Above, Officers shall mean the Chief Executive or a Strategic Director; the Monitoring Officer; the Director (HR, Governance and Regulatory), the Service Manager (Environmental Health) or the Licensing Team Leader.

If a Councillor has not received requisite training in the previous 12 months in relation to the application in question, they cannot be selected to sit on a

licensing hearing. For example, a Councillor must have received training in premises licensing in the previous 12 months to sit on a premises hearing. In exceptional cases where the Committee would not otherwise be quorate, the Monitoring Officer or Legal Officer present at the hearing may waive the compulsory training requirement for any individual Member.

In addition to Committee Members, all Members will be called upon to act as local Members on applications, and to be at their most effective should ensure they take steps to keep themselves informed and up-to-date. It is therefore expected that all Councillors should endeavour to undertake at least one licensing training event a year.

### **Site Visits**

Site visits for licensing are exceptional and should not be considered normal practice.

If a site visit is organised, then Members of the Hearing should make every effort to attend. The site inspection should be treated simply as an inspection; Councillors may seek further information from Officers and observe the site but should not engage with, or seek information about the application from the licensee, objectors or any other third parties.

Councillors should avoid expressing clear opinions or views at site inspections and reserve judgement until the hearing.

Councillors who are notified they may be part of a hearing in relation to an application should avoid attending premises or using services of licensees, especially once the hearing has been formally called.



# **West Suffolk Council Members' Allowances Scheme**

**(Revised: February 2024)**

## **1. The West Suffolk Council remuneration scheme**

1.1 All councils are required to form a scheme of allowances that:

- determines how much individual members receive for being a councillor (the basic allowance)
- determines how much those members who have additional responsibilities should receive (special responsibility allowances)
- determines the circumstances under which members may claim expenses for costs they have incurred because they are a member.

1.2 The council must set the scheme in accordance with the requirements of the Local Authorities (Members Allowances) (England) Regulations 2003. The scheme has been produced on the recommendation of an Independent Remuneration Panel, a group of individuals who are entirely separate from the Council who have considered how much members should receive.

1.3 This scheme was approved by West Suffolk Council on 19 December 2023 and as required by the regulations, will be subject to annual review.

## **2. Basic allowance**

2.1 Each member shall receive a payment of £6,606.30 per year for undertaking their work as a councillor. This payment is intended to include all expenses and costs they incur that fall outside the scope of the expenses scheme (see below), including costs of stationery, printing, phone calls, mobile phone, and home energy and internet costs. In addition to the basic allowance, members are offered a laptop and sundries (keyboard, mouse, and so on).

2.2 The sum of £6,606.30 shall be uplifted each year by the same rate as the Consumer Price Inflation (CPI) index as at 1 April in each year commencing on 1 April 2025. Should this be greater than three percent, the Remuneration Panel shall consider the level of increase and make recommendations to the Council accordingly.

## **3. Special responsibility allowances**

3.1 Members shall receive a payment in line with Schedule 1 for any special responsibilities posts that they are appointed to by the Council. Special responsibility allowances are paid in addition to the basic allowance.

3.2 A member may hold more than one special responsibility post but may only be paid one special responsibility allowance that attracts the highest rate.

## **4. Payment and foregoing of allowances**

4.1 Allowances shall be paid in 12 monthly instalments on the 23rd of each month unless that day is a weekend or bank holiday, in which case it shall be paid the previous Friday.

4.2 A member shall be paid any allowances from their date of appointment, so that:

- 4.2.1 In an ordinary election year, basic allowances are payable from four days after the date of election.
  - 4.2.2 In the event of a by-election, basic allowances are payable from the date of the by-election.
  - 4.2.3 In the event appointment to a special responsibility post, from the date the appointment was made.
- 4.3 Where a member's entitlement to an allowance begins or ends part of the way through the year, their entitlement shall be the same proportion as the number of days during the term of office to the number of days in that year.
- 4.4 A member may write to the Monitoring Officer to notify of their intention to forego any allowance, or part of any allowance, payable to them under this scheme.
- 4.5 In the event that the council agrees that a member may be granted a leave of absence of more than six months, then the member will not be entitled to receive a basic allowance after they have been absent for more than six months. Their allowance payment will be resumed after they have attended a Council meeting.
- 4.6 Where a member has been overpaid, they shall be invoiced for the value of the overpayment and required to repay the allowance. Where they have been underpaid, this shall be paid to them by the council as part of any subsequent payment.
- 4.7 PAYE arrangements apply to members' allowances, in that they are subject to National Insurance and Income Tax, and deductions shall be made by the council accordingly. Members cannot join the Local Government Pension Scheme.

## **5. Travel, subsistence and carers and dependents allowances**

- 5.1 Members are allowed to claim travel, subsistence and carers or dependents allowances when carrying out official duties as listed within Schedule 2.
- 5.2 Members must submit claims within two months using any approved electronic ICT systems or forms. For claims to be processed within the month submitted, they must be submitted in accordance with stated deadlines provided to members.

### **5.3 Travel allowances**

- 5.3.1 When claiming mileage, receipts for fuel or electricity purchases are expected to be retained by the member for inspection upon request but are not required to be submitted with the claim.
- 5.3.2 Members living inside the district should claim expenses from their home, or the starting point of their journey, whichever is the closest. Where a member lives outside the district the nearest border should be agreed with them by the

Monitoring Officer or Chief Executive, which would then become their notional base for travel purposes from which claims from their 'home' may be made.

5.3.3 Members should, when possible, seek to use alternatives such as walking, cycling, public transport or car sharing instead of personal car journeys to support the council in reducing the environmental impact of its activities.

5.3.4 Where members are undertaking official duties, claims for travel allowances will be paid at the following rates:

Travelling by car or van	First 10,000 miles 45 pence per mile. Each mile over 10,000 25 pence per mile.
If providing transport to another member or council employee to attend the same event	An additional 5 pence per mile
Travelling by motorcycle	24 pence per mile.
Travelling by bicycle	20 pence per mile.
Public transport	Standard fare incurred; members are expected to use any discount or concessionary fare entitlements. Evidenced by receipt.
Taxis	Actual fare, as evidenced by receipt; this should normally be pre-approved by the Chief Executive or Monitoring Officer and only in exceptional circumstances. No gratuity reimbursed.
Car parking and toll fares	Actual fee or fare incurred, as evidenced by ticket, receipt or statement.

5.3.5 Any other forms of transport or arrangements that do not fall within the scope above should be notified to the Chief Executive or Monitoring Officer to agree. Wherever possible, where public transport or alternative transport is being used, then the member or council (on their behalf) should seek to pre-purchase tickets to ensure best value.

5.3.6 Should HMRC adjust the standard rates for car, motorcycle or bicycle travel, then the council may adjust the rates in section 5.3.4 accordingly, or the council could reconvene the Independent Remuneration Panel to review the rate changes.

5.3.7 Members must ensure that they have complied with the relevant tax and MOT requirements for their vehicle and have appropriate insurance in place that covers their member activities for their vehicle. Claims may not be paid if these requirements have not been complied with.

5.3.8 Members are entitled to use the council's pool cars and electric bicycles when undertaking council business. The pool cars include use of a fuel card and therefore mileage expenses cannot be claimed when the journey has been undertaken by pool car.

## **5.4 Subsistence allowances**

- 5.4.1 Any overnight accommodation should be booked and paid for by the council on behalf of the member in advance.
- 5.4.2 Where a member leaves the district and attends an event in their capacity as a councillor listed under Schedule 2 for five hours or more, claims may be made for subsistence up to a maximum of £20. This is to be evidenced by receipt.
- 5.4.3 Any other exceptional circumstances, may be agreed by the Monitoring Officer or Chief Executive.

## **5.5 Carers and dependents allowances**

- 5.5.1 While undertaking council duties as set out within Schedule 2, members who have caring responsibilities are allowed to claim for the costs they incur. Up to a maximum of £10 per hour may be claimed for childcare, and £28 per hour for support care for dependents. Costs incurred where care is required to be pre-booked may be claimed.
- 5.5.2 These payments will be reimbursed on production of receipts (which may include a personal receipt with the carer's details and signed by the councillor) or invoices for costs incurred. They should be claimed in respect of those who live with the member, or are dependent on the member for support, and cannot be left unsupervised during the member's absence.
- 5.5.3 Costs in respect of childcare may only be claimed outside of normal childcare provision times – for example, claims may not be made when the child is in school or using entitlement to free childcare hours.

## **6. Members with additional needs**

- 6.1 If any members have particular needs arising due to a protected characteristic under the equalities act – for example, they have a disability that prevents them using some forms of transport, then the Chief Executive or Monitoring Officer may agree to the payment of any additional claims or support arrangements that fall outside the scope of the scheme, to support their needs.

## Schedule 1

### Rates of allowances – as at 1 February 2024

Tier	Value in relation to basic	Responsibility	Value Special responsibility allowances are paid in addition to the basic allowance
	1	Basic allowance	£6,606.30
1	2.5	Leader of the Council	£16,515.74
2	1.5	Deputy Leader of the Council	£9,909.44
3	1.25	Cabinet Members Chair of Council	£8,257.87
4	0.9	Chair of Development Control Chair of Overview and Scrutiny Chair of Performance and Audit Scrutiny	£5,945.67
5	0.66	Chair of Licensing Vice-Chair of Council Vice-Chair of Development Control	£4,360.16
6	0.4	Vice-Chair of Overview and Scrutiny Vice-Chair of Performance and Audit Scrutiny	£2,642.52
7	0.35	Vice-Chair of Licensing	£2,312.20

### Rates of allowances: group leaders

Tier	Value in relation to basic	Responsibility	Value
7	0.35	Group size of 21-32	£2,312.20
	2/3 of 0.35 (tier 7)	Group size of 11-20	£1,541.47
	1/3 of 0.35 (tier 7)	Group size of 3-10	£770.73



## Schedule 2

### **Approved duties for the purpose of payment of travel, subsistence and carers or dependents allowances**

Members may claim travel, subsistence and carers or dependents allowances (Carers or dependents allowance may be claimed in accordance with section 5.5 above if care is required while a member is attending meetings or engagements held in person or by virtual means) when undertaking the following duties:

1. Attendance at a meeting of the authority or of any committee or sub-committee of the authority, or of any other body to which the authority makes appointments or nominations, or of any committee or sub-committee of such a body.
2. Attendance at any other meeting, the holding of which is authorised by the authority, or a committee or sub-committee of the authority, or a joint committee of the authority and at least one other local authority provided that where the authority is divided into two or more political groups it is a meeting to which members of at least two such groups have been invited; or if the authority is not so divided, it is a meeting to which at least two members of the authority have been invited.
3. The attendance at a meeting of any association of authorities of which the authority is a member.
4. The attendance at a meeting of the executive or a meeting of any of its committees, where the authority is operating executive arrangements.
5. The performance of any duty in pursuance of any standing order made under section 135 of the Local Government Act 1972 requiring a member or members to be present while tender documents are opened.
6. The performance of any duty in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises.
7. The carrying out of any other duty approved by the authority, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the authority or any of its committees or sub-committees. Specifically:
  - a. Meetings arranged by, or on behalf of, or approved by the Chief Executive, strategic directors, directors or service managers to which members have been invited.
  - b. Appointed to represent the council other than as members of outside bodies (see 1. above), either by virtue of specific resolution or in the capacity of Leader or Deputy Leader or as Chair or Vice-Chair of a committee.
  - c. Meetings and engagements undertaken by the Leader of the Council, Deputy Leader or Cabinet members through the course of their duties and as part of their specific roles and responsibilities.

- d. Representing the council at official and courtesy visits of a civic nature within the United Kingdom at the request of the Chief Executive or an officer authorised by the Chief Executive.
- e. Attending training and development courses, seminars, workshops and conferences.
- f. Representing the council at public inquiries.

In addition, members are entitled to claim travelling expenses when acting as a local ward member. Members should use their judgement (or seek advice from the Monitoring Officer) to determine whether the meeting or event they are travelling to is genuinely in their local ward work and therefore eligible to be claimed. The following is not exclusive, but acts as guidance on the type of matters that members **can claim for**:

- Attending meetings of a local town or parish council, or, resident or community association.
- Attending meetings of community groups when requested to do so by the group.
- Representing the community as a local ward member at events such as parish forums and meetings or events that are making decisions about the community.
- Visiting residents or local businesses to respond to enquiries.
- Attending meetings where proposals relating to the local ward are being presented.
- Attending meetings relevant to expenditure on the council's locality ward budget scheme.
- Meetings arranged by the member with specific officers to discuss ward matters or to resolve ICT problems.

It is expected that ordinarily claims should be within the local member's ward, except where the member is acting at a community representative. Members may also claim where another member has asked them to act as the local ward member on their behalf.

Attendance at the following events **cannot be claimed for**:

- Attending meetings when they are a part of the town or parish council, or community group who have convened the meeting.
- Attending meetings or making visits which have no relation to council business.
- Attending meetings or making visits which are primarily to deal with personal or political business. This includes attendance at political group meetings where council officers are present for a proportion of the time.
- Unless specifically representing the Council (see 7d. above), attending civic events (such as the annual civic reception, Remembrance service etc).