

# Public Document Pack

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*St Edmundsbury*  
**BOROUGH COUNCIL**

# CONSTITUTION

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## St Edmundsbury Borough Council

### Summary and Explanation

#### Introduction

St Edmundsbury Borough Council is the democratically-elected body that exercises various statutory powers and duties in the borough. It is divided into 31 areas known as wards and there are 45 councillors (also known as members) who are elected by the residents of those wards who are on the electoral register to represent them on the Council. Elections take place every four years.

#### 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 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 – including codes of conduct for councillors and council staff.

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 (also known as the Executive) 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 and he or she appoints up to nine other councillors, one of whom will also be the Deputy Leader, to sit on the Cabinet and be responsible for particular areas (known as portfolios) of the Council's work.

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. 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.

## **Full Council**

Some decisions, such as the Council's overall budget and its main policies, have to be taken by all the councillors meeting together as the full Council. These meetings take place at least five times a year. More information about the full Council's powers and procedures can be found in Part 2: Article 4 and Part 4: Council Procedure Rules.

## **Regulatory committees**

The law gives the Council power to grant consents, licences and so on for such matters as planning and licensing. These powers cannot be decided by the Cabinet and are exercised instead by committees of the Council. What these committees are and what they do is set out in Part 2: Article 8 and Part 3: Responsibility for Functions.

## **Scrutiny**

The Council has two committees whose job 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.

The Performance and Audit Scrutiny Committee has responsibility for monitoring the Council's performance. It also audits and makes recommendations for how the Council should spend its budget.

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

## **Standards**

There is a Joint Standards Committee comprising members of Forest Heath and St Edmundsbury councils. It is responsible for upholding high ethical standards in West Suffolk, including monitoring compliance with the Code of Conduct by all district, borough, town and parish councillors in the area. Further details can be found in Part 2: Article 9 and Part 3: Responsibility for Functions.

## **Staff**

The Council has people working for it, sometimes 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, which councillors must respect. A protocol governs the relationship between councillors and officers. Officers do not vote on decisions made by the Council, Cabinet or its committees.

## **Joint working**

Forest Heath and St Edmundsbury work in partnership to provide a more efficient service for the people of West Suffolk. The Chief Executive, senior managers and most staff work across both authorities. Councillors also work together, for example by holding joint meetings of the Cabinet and scrutiny committees, where they are considering matters relevant to both council areas. The Constitution sets out procedures for these joint meetings.

## **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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**PART 2**  
**ARTICLES**

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## **St Edmundsbury Borough 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 St Edmundsbury Borough 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 and effectively;
- e) create a powerful and effective means of holding decision-makers to public account;
- f) ensure that no-one will review or scrutinise a decision in which they were directly involved;
- g) ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and
- h) provide a means of improving the delivery of services.

#### **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 In the Constitution, the term 'Cabinet' should be taken to mean 'Executive' (and the other way round).

1.4.3 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.

1.4.4 The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

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## **St Edmundsbury Borough Council**

### **Article 2 – Members of the Council**

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

The Council comprises 45 councillors who are elected by the voters of the borough. There are 31 wards in the borough and one or more councillors will be elected to each ward in line with a scheme which was drawn up by the Electoral Commission and approved by the Secretary of State.

To be eligible to stand for election as a councillor, a person must be registered to vote in the borough, or live or work there.

#### **2.2 Elections and term of office**

The regular election of councillors is held on the first Thursday in May, every four years. 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 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**

These are set out in the ward councillor job description which forms the Appendix to this Article 2 of the Constitution.

#### **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 7 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.

# Appendix

## Ward Councillor Job Description

### 1. Overview

As a councillor, you will be expected to balance the needs and interests of your local area, your residents and voters, community groups, local businesses, your political party (if applicable) and the council.

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.

### 2. Representing the local area

- 2.1 Represent effectively the interests of the Ward for which you were elected and deal with constituents' enquiries and representations, fairly and without prejudice.
- 2.2 Champion the causes which best relate to the interests and sustainability 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
  - The rights of your constituents.
- 2.5 Represent the authority to the community and the community to the authority, through the various forums available.
- 2.6 Respond promptly and fully to any consultation regarding matters within your ward.
- 2.7 Know your Ward, and be aware of its particular qualities, advantages and problems.

- 2.8 Know and work with representatives of local organisations, interest groups and businesses.
- 2.9 Encourage people in your ward to participate in the democratic decision-making process by engaging with consultations etc.

### **3. Participating in the work of the council**

- 3.1 Participate effectively as a member of full Council and any committee, group or other forum 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.
- 3.6 As you are able, assist the Mayor or Chairman 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 Maintain and develop your skills by participating in the Member Development Programme and attending the training offered. Ensure you have relevant IT skills to enable you to make use of the council's systems.

## St Edmundsbury Borough Council

### Article 3 – The Public and the Council

#### 3.1 The public's rights

The public has the following rights. 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) **Referendums** – 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.
- 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 full 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 meetings in accordance with the protocol set out in the Council and Committee Procedure Rules in Part 4 of the constitution.
- d) **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 7 of the constitution.
- e) **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**

The public must not be violent, abusive or threatening to councillors or to the council's employees and must not wilfully harm things owned by the council, councillors or council employees.



## St Edmundsbury Borough Council

### Article 4 – The Council

#### 4.1 Meaning

The Council means every councillor of St Edmundsbury Borough 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 him/her 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 (by unanimous vote) in some other way as the Council sees fit.
- 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) Conferring the title of Honorary Alderman or the Honorary Freedom of the Borough.
- o) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills.

- p) 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.
- q) To authorise funding from the Council's Capital Investment Fund, over the value of £2m (in line with the Council's Growth Investment Strategy)
- r) 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
- Corporate Enforcement Policy
- Licensing Act Statement of Policy
- Gambling Act Statement of Principle

Plus high-level strategies relating to:-

- Housing
- Families and Communities
- Waste
- Economic development and growth
- Sustainable development
- Equality
- Customer Access

It may also be appropriate for some regional or sub-regional policies or strategies to be considered by full 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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## **St Edmundsbury Borough Council**

### **Article 5 – Chairing the Council**

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

The Mayor and Deputy Mayor will be elected annually by the Council.

Neither the Mayor nor Deputy Mayor may be a member of the Cabinet.

The Mayor and in his/her absence the Deputy Mayor have the following roles.

#### **5.2 Procedural role**

The Mayor will:-

- a) chair meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- b) uphold and promote the purposes of the constitution and interpret the rules of procedure at Council meetings;
- c) 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) exercise a casting vote in the event of a tie at a Council meeting with complete freedom of conscience.

#### **5.3 Civic and ceremonial role**

The Mayor is the ceremonial head of the Council and will be its representative at civic and ceremonial events. He/she maintains an apolitical stance, especially when chairing Council meetings. This part of the role includes:-

- a) representing and promoting the whole borough during his/her term of office;
- b) enhancing the image of the borough;
- c) encouraging understanding of the Council's role, priorities and partnerships
- d) promoting public involvement in the Council's activities.

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## St Edmundsbury Borough Council

### Article 6 – The Cabinet

#### 6.1 Role

6.1.1 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 no fewer than two and up to 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 Mayor and Deputy Mayor of the Council may not be members of the Cabinet.

#### 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, if he or she thinks fit, remove the Deputy Leader from office. Where there is a vacancy in the office of Deputy Leader, the Leader must appoint another person to be Deputy Leader. Unless he

or she is 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 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 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 his/her 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 12 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 functions which by law the executive must carry out or 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. Meetings will usually take place through the agreed Joint Committee structure outlined in Part 3 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 paragraph 7.2.5(a) of Article 7 Overview and Scrutiny).

## **Appendix A**

### **List of Portfolio Responsibilities**

#### **The Leader**

- Leadership and strategic direction of the Council
- External relations and communications
- Strategic economic development

#### **Families and Communities**

- Corporate communications
- Corporate strategy/planning and co-ordination
- Crime and community safety
- Customer services, access and engagement
- Equalities and diversity
- Families and communities
- Future of public services and service integration
- Health

#### **Future Governance**

- Civic Office
- Democratic Services, including:-
  - Cabinet management and support
  - Scrutiny management and support
- Elections
- Member Development and Training
- Implementing a single Council for West Suffolk

#### **Housing**

*(This Portfolio Holder is also the lead Councillor on the housing portfolio at Forest Heath District Council)*

- Choice based lettings
- Homelessness advice
- Public health
- Safeguarding
- Social care
- Strategic housing (including private sector housing and Disabled Facilities Grants (DFG) policy)

#### **Leisure and Culture**

- Heritage and culture
- Parks and open spaces (including trees)
- Sport

#### **Operations**

- Car parking
- CCTV
- Cemeteries
- Fleet management
- Grounds maintenance

- Land drainage
- Markets (delivery)
- Operations
- Property services and estate management
- Public conveniences
- Refuse/recycling
- Street scene
- Tourism (operations)

### **Planning and Growth**

- Building control
- Conservation
- Development control
- Economic development
- Enforcement
- Environmental health
- Growth areas and regeneration
- Licensing
- Planning policy
- Rural development
- Tourism (strategic)
- Town centres

### **Resources and Performance**

- Business development/commercial
- Financial services (including audit)
- Health and safety
- Human resources (including payroll)
- ICT
- Legal services
- Performance and risk management
- Procurement

## **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:

- 1.1 A decision that is a departure from the agreed Strategic Plan except where this falls within current agreed policy.
  - 1.2 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.
  - 1.3 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 Assistant Director (HR, Legal & Democratic Services).
  - 1.4 A decision in which the Cabinet member has either a disclosable pecuniary interest or some other conflict of interest.
  - 1.5 Those decisions delegated to an officer unless the officer refers the decision to the Cabinet member.
  - 1.6 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 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.
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, 5 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 website together with any supporting report.

Where 5 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 (5 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 5 days of the decision being published and the usual process shall be followed.

## St Edmundsbury Borough Council

### Article 7 - Overview and 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. Forest Heath and St Edmundsbury Councils may also appoint joint overview and scrutiny committees to exercise those functions with regard to matters that affect both councils. 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 Overview and Scrutiny 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, or as many as Council determines from time to time, 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 policies and services. To do this it will exercise the following **General Role**:

- (a) review and scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions (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;
- (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 set out in Part 5 of this Constitution;
- (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.

The Leaders of Forest Heath District Council and St Edmundsbury Borough Council have confirmed their intention to delegate collective Cabinet decision making to a Joint Cabinet. It is, therefore, expected that where the Overview and Scrutiny Committee performs its role in holding the Cabinet to account, then the Chairman shall consult with the Chairman of the Forest Heath Overview and Scrutiny Committee on whether it is more effective and efficient to meet jointly. Where it is considered appropriate to do so, the date, time and venue of the meeting shall be confirmed by the Chairmen and the meeting shall be undertaken in

accordance with the principles of the Overview and Scrutiny Committee Procedure Rules in Part 4 of the Constitution.

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

7.3.1 The Council will also appoint a Performance and Audit Scrutiny Committee of up to ten 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 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 Performance and Audit Scrutiny Committee must report annually to the full 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 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 Performance and Audit Scrutiny Committee will conduct their proceedings in accordance with the Overview and Scrutiny 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 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 chairman and vice-chairman 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.

## **St Edmundsbury Borough Council**

### **Article 8 – Regulatory 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.

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## **St Edmundsbury Borough Council**

### **Article 9 - The Joint Standards Committee**

#### **9.1 Standards Committee**

9.1.1 This is a Joint Committee between St Edmundsbury Borough Council and Forest Heath District Council.

9.1.2 Political balance rules do not apply to this Committee.

#### **9.2 Membership**

9.2.1 The Joint Committee will comprise six Members, three appointed by each authority.

9.2.2 The quorum of the Joint Committee will be three Members.

#### **9.3 Role and Function**

9.3.1 The Joint Standards Committee will have the roles and functions set out in Part 3 to this Constitution, Responsibility for Functions.

9.3.2 The Joint Standards Committee will not cover the conduct of officers, for which separate provisions apply.

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## St Edmundsbury Borough Council

### Article 10 - Joint Arrangements and Working Groups

#### 10.1 Arrangements to Promote Wellbeing

10.1.1 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.

#### 10.2 Joint Arrangements

10.2.1 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.

10.2.2 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.

10.2.3 Except as set out in 10.2.4 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.

10.2.4 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.

- 10.2.5 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.

### **10.3 Working Groups**

- 10.3.1 The Council, Cabinet or Committees may appoint from time to time such working groups as they think fit, including joint working groups with Forest Heath District Council. The working groups which have been appointed are identified in Part 3 of this constitution.
- 10.3.2 The Code of Conduct for Members will apply to councillors participating in a working group.

### **10.4 Access to Information**

- 10.4.1 The Access to Information Rules in Part 4 of this Constitution apply to any joint arrangements.
- 10.4.2 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.
- 10.4.3 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.

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

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

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

## **10.6 Contracting Out**

10.6.1 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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## St Edmundsbury Borough Council

### Article 11 - Officers

#### 11.1 Management Structure

11.1.1 Appointment of staff below Chief Officer level must be the responsibility of the Head of Paid Service or his/her 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 Joint Officer Appointments Committee.
- (c) **Head of Paid Service, Chief Finance Officer (s151 Officer) and Monitoring Officer** – the Council will in the Scheme of Delegation to Officers in Part 3 of this constitution designate officers to these posts.

Such 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; and

- (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. This is set out as Part 7 of this Constitution.

#### 11.2 Functions of the Head of Paid Service

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

- 11.2.2 **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.

### **11.3 Functions of the Monitoring Officer**

- 11.3.1 **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.
- 11.3.2 **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 full Council, the Cabinet (in relation to an executive function) or the relevant committee if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 11.3.3 **Supporting the Joint Standards Committee** - The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Joint Standards Committee.
- 11.3.4 **Conducting investigations** - The Monitoring Officer will conduct investigations into complaints referred by the Monitoring Officer and Independent Person and make reports or recommendations in respect of them to the Joint Standards Committee.
- 11.3.5 **Access to Information** - The Monitoring Officer will ensure that there are procedures in place for Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers, to be made publicly available as soon as possible.
- 11.3.6 **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.
- 11.3.7 **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.
- 11.3.8 **Restriction on posts** - The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

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

- 11.4.1 **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 full Council, or the Cabinet in relation to an executive function, and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 11.4.2 **Administration of financial affairs** - The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- 11.4.3 **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.
- 11.4.4 **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.
- 11.4.5 **Give financial information** - The Chief Finance Officer will ensure that financial information about the Council is provided to the media, members of the public and the community.

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

- 11.5.1 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.

## **11.6 Conduct**

- 11.6.1 Officers will comply with the Officers' Code of Conduct and the protocol on officer/member relations set out in Part 5 of this Constitution.

## **11.7 Employment**

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



## St Edmundsbury Borough Council

### Article 12 – Decision-Making

#### 12.1 Responsibility for Decision-Making

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

#### 12.2 The Principles of Decision-Making

12.2.1 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 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.

### **12.3 Types of Decision**

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

#### **12.3.2 Key Decisions**

- (a) A "key decision" means an executive decision which, pending any further guidance from the Secretary of State, is likely to:-
- (i) be significant in terms of its effects on communities living or working in an area in the Borough; or
  - (ii) result in any new expenditure, income or savings of more than £100,000 in relation to the Council's revenue budget or capital programme; or
  - (iii) comprise or include the making, approval or publication of a draft or final scheme which may require, either directly or in the event of objections, the approval of a Minister of the Crown.
- (b) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

### **12.4 Urgent key decisions**

12.4.1 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 in Part 4 of this constitution.

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

12.4.1 Subject to Article 12.8, the Council meeting will follow the Council procedure rules set out in Part 4 of this Constitution when considering any matter.

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

12.5.1 Subject to Article 12.8, the Cabinet will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

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

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

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

12.7.1 Subject to Article 12.8, 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.

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

12.8.1 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.

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## **St Edmundsbury Borough Council**

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

#### **13.1 Financial Management**

13.1.1 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.

#### **13.2 Contracts**

13.2.1 Every contract made by the Council will comply with the contracts procedure rules set out in Part 4 of this Constitution.

#### **13.3 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 he or she considers that such action is necessary to protect the Council's interests.

#### **13.4 Authentication of documents**

13.4.1 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.

#### **13.5 Common Seal of the Council**

13.5.1 The Common Seal of the Council will be kept in a safe place in the custody of the Assistant Director (HR, Legal & Democratic Services). A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the 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 Director
- An Assistant Director
- A Lawyer.

13.5.2 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.

## St Edmundsbury Borough Council

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

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

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

#### 14.3 Changes to the Constitution

##### Approval

- 14.3.1 Except as provided in 14.3.3 below, changes to this constitution will be approved by the full Council after consideration of the proposal by the Monitoring Officer.
- 14.3.2 A vote at full Council to change this Constitution should be passed by a simple majority of those present and voting.
- 14.3.3 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. Such changes will be reported quarterly to the Overview and Scrutiny Committee. 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.
- 14.3.4 If the proposal involves a change from the existing Leader and Cabinet form of executive to another form of executive, the Council must take reasonable steps to consult with local electors and other interested persons in the Borough. If the proposed new form of executive involves an elected mayor, the Council must also hold a referendum.

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## St Edmundsbury Borough Council

### Article 15 - Suspension, Interpretation, Maintenance and publication of the Constitution

#### 15.1 Suspension of the Constitution

15.1.1 **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.

15.1.2 **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.

#### 15.2 Interpretation of the Constitution

15.2.1 The ruling of the Mayor (or in his/her absence the Deputy Mayor) 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.

#### 15.3 Maintaining the Constitution

15.3.1 The Monitoring Officer will ensure that there are periodic operational reviews of this Constitution.

15.3.2 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 15.4 below.

#### 15.4 Publication of the Constitution

15.4.1 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.

15.4.2 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, libraries and other appropriate locations, and can be purchased by members of the local press and public on payment of a reasonable fee.

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## **SCHEDULE 1 - DESCRIPTION OF EXECUTIVE ARRANGEMENTS**

The following parts of this Constitution comprise the Executive arrangements.

1. Article 4 (Area Committees and Forums) - The Council does not currently operate Area Committees;
2. Article 6 (The Cabinet) and the Executive Procedure Rules in Part 4 of this Constitution;
3. Article 7 (Overview and Scrutiny) and the Overview and Scrutiny Procedure Rules in Part 4 of this Constitution;
4. Article 10 (Joint Arrangements) - The Council currently operates joint arrangements with the County Council, neighbouring district councils and town/parish councils in the Borough;
5. Article 12 (Decision-Making) and the Access to Information Procedure Rules in Part 4 of this Constitution; and
6. Part 3 (Responsibility for Functions).

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**PART 3  
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.

## St Edmundsbury Borough Council

### Part 3 – 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 he is employed by the Authority;	Council
(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.*



## **St Edmundsbury Borough Council**

### **Section 2 - Responsibility for Council functions**

- 2.1 The following parts set out how the Council has chosen to delegate responsibility for certain of its Local Choice and non-executive functions. Other delegations are contained in the Scheme of Delegation to Officers. Where no delegation is indicated, responsibility for Local Choice and non-executive functions remains with the full Council. The delegation of powers and duties to Committees and Sub-Committees shall be deemed to include, in any reference to an Act of Parliament, a reference to any subsequent Act or Acts which may amend, replace or extend it, and to any regulation, order or direction made under such Act or Acts.
- 2.2 Every Committee appointed by the Council 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.
- 2.3 Any Committee or Sub-Committee may, within its delegated authority, set up working parties or panels for the detailed study of any matter. Any working party/panel given delegated authority will become a Sub-Committee.

### **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 and 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).

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 table in Section 1 above).

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 planning or similar applications which are:
  - (a) judged by the Assistant Director (Planning and Regulatory) (after consultation with the Chairman and/or the Vice Chairman/men 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, and;
  - (b) applications proposing major development (as defined in Article 1(2) of the Town and Country Planning (General Development Procedure) Order 1995) and where the recommendation of the Assistant Director (Planning and Regulatory) would conflict with or would not substantially satisfy the written representation of the Parish/Town Council; or where a Member for the ward in which the application site is located, or who is a Member of the Council's Development Control Committee, has requested (in writing) consideration by Committee, and;
  - (c) applications proposing other than major development (as defined above) referred by the Assistant Director (Planning and Regulatory) following consultation with the Delegation Panel.
- (2) A Members' Delegation Panel Scheme (known as "the Panel") has been set up to deal with applications for Planning Permissions, Listed Building Consents and Conservation Area Consents. 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. This will apply in cases including (but not limited to) applications from householders, advertised 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), applications for a variation of conditions, applications relating to hazardous substances and TPO applications.

In cases referred to above, decisions will only be taken following consultation with the Panel which will comprise the Chairman and/or Vice Chairman/men of Development Control Committee and any local Ward Member(s) who has/have expressed any interest in writing.

The Panel scheme will operate as follows:

- (a) Meeting of the Panel will normally take place fortnightly.
  - (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 Chairman and Vice Chairman/men of Development Control Committee and any local Member(s) or adjacent Ward Member with the approval of the Ward Member(s) who has/have expressed any interest in writing, at least four clear working days in advance of the Panel meeting, with provision for emergency items at the discretion of the Chairman or Vice Chairman/men and Ward Member(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 Member may attend the Panel as an observer.
  - (d) The Council's Planning Case Officer(s) will present individual applications for discussion and decision, including all representations received and photographs of the site.
  - (e) The formal decision as to whether the application will be determined at Development Control Committee or by delegated authority will be made by the Assistant Director (Planning and Regulatory) in consultation with the Chairman and/or Vice Chairman/men and any interested local Ward Member. In the absence of a consensus between the Members the application will be reported to the Development Control Committee.
  - (f) The relevant Parish/Town Council will be informed of the decision verbally by the Council's case officer within two working days of the Panel meeting and will be sent written reasons within 10 working days of the Panel meeting with copies to the Chairman, Vice Chairman/men of Development Control Committee and local Member(s).
- (3) The Committee is responsible (without imposing limitations on the ability to sub-delegate these functions in accordance with the Scheme of Delegation to Officers) for matters relating to:
- (a) Development Control functions and enforcement including (but without limitation):
    - (i) The preservation of buildings and trees;
    - (ii) Controlling uses of land and buildings, including relocation of non-conforming uses, the making of discontinuance, revocation and modification orders and

- the making of agreements regulating the development and/or use of land or premises;
  - (iii) Determination of planning applications and commenting upon development proposals by Suffolk County Council and other public bodies;
  - (iv) Determination of planning applications made by or on behalf of the Council, whether submitted by or on behalf of the Council itself or jointly with another person;
  - (v) Determination of applications relating to signs and advertisements;
  - (vi) Enforcement by means of issue of enforcement notices, breach of condition notices, stop notices and any other lawful instrument and subsequent prosecution or legal proceedings.
- (b) Building Control functions and enforcement, including but without limitation:
- (i) approval of buildings and works under Building Regulations for the time being in force;
  - (ii) enforcement action including criminal, injunctive or other legal proceedings;
- (c) To fix fees and charges for all services administered by the Committee.

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

- 2.1 The Committee will comprise up to 17 Members of the Authority.
- 2.2 The Committee will be appointed annually by the full Council and will be politically balanced.
- 2.3 The Committee will appoint its own Chairman and Vice-Chairman/Chairmen.
- 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 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 being consistent with Development Plans and adopted Borough and County Planning Policies;
  - (b) statutory and customary consultations being carried out; 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 part 1, paragraphs (1)(a) – (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.

## **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.

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.

- 1.1 The Committee is authorised to undertake (or sub-delegate) all of the Council’s regulatory functions relating to licensing and registration, health and safety at work (for non-Council staff), public rights of way and take-away food shops, as specified in Parts B, C and I of Schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended by SI 2001 No.2212 and any subsequent Regulations).
- 1.2 The Committee is also authorised to exercise the Council’s Local Choice Functions (as specified in the Table in Section 1) in relation to:-
  - (1) the determination of an appeal against any decision made by or on behalf of the Council (other than those relating to employees of the Council), including appeals relating to Discretionary Housing Payments;
  - (2) any function relating to contaminated land.
  - (3) the discharge of any function relating to the control of pollution or the management of air quality;
  - (4) the service of an abatement notice in respect of a statutory nuisance;
  - (5) the passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area;
  - (6) the inspection of the Authority's area to detect any statutory nuisance;
  - (7) the investigation of any complaint as to the existence of a statutory nuisance;

- (8) the obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976; and
  - (9) the making of agreements for the execution of highways works.
- 1.3 The Committee may also authorise a prosecution for any offence within the scope of its delegation.

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

- 2.1 The Committee will comprise up to 13 Members. It will be appointed annually by the full Council and will be politically balanced in so far as is reasonably practicable.
- 2.2 Members appointed to the Committee will:
- (a) be able to provide a sufficient, competent<sup>1</sup> pool 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) be required to undertake mandatory training on the functions and responsibilities of the Committee and its Sub-Committees in order that legislative and/or local pay policy requirements are appropriately applied. Attendance at events or delivered by other means of all updates on relevant laws will be required.
- 2.3 The Committee will appoint its own Chairman and Vice-Chairman/Chairmen.
- 2.3.1 Chairmen will:
- (a) be elected with full understanding of their procedural responsibilities, in accordance with the principles set out in paragraph 5.2 of Article 5 of the Constitution.
  - (b) be responsible for Member-to-Member engagement, in particular between the Committee and the respective Portfolio Holder.

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<sup>1</sup> ‘Competent’ is defined as having the necessary ability, knowledge and skills required to carry out the work of the Committee and its Sub-Committees. Members and Substitutes of the Committee will be declared ‘competent’ following successful achievement of the required training set out in the Council’s mandatory training package.

- (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 meet on an annual basis in accordance with a schedule of ordinary meetings approved by the Council to:
  - (a) set relevant fees and charges.
  - (b) confirm how the Committee will carry out the core legal functions of the Licensing Authority.
  - (c) agree an allocation of Committee Members to participate in the development of policies on the policy work programme.
- 2.5 With the agreement of the Chairman (or the Vice-Chairman in the absence of the Chairman) 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 The majority of the Committee's functions will be determined by Officers, as set out in Section 4 of this part of the Constitution. In normal circumstances, matters will only be brought before the Committee or a Sub-Committee where there is a difficulty or an appeal against an Officer's decision.
- 3.2 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. As far as possible, Sub-Committees should not comprise Members drawn from the same political group or who are all male or all female. All Members of the Committee should be given equal opportunities to sit on Sub-Committees following successful completion of the relevant training.
- 3.3 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.
- 3.4 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.
- 3.5 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 will be conducted in accordance with the Committee Procedure Rules, except when the Committee 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

**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		
Policy not to permit casinos	x		
Fee Setting (when appropriate)			x
Application for premises licences		Where representations have been received and not withdrawn made	Where no representations have been received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn made	Where no representations have been received/representations have been withdrawn
Application for transfer of a licence		Where representations have been received and not withdrawn made	Where no representations have been received/representations have been withdrawn
Application for a provisional statement		Where representations have been received and not withdrawn made	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)	Where no objections have been made/objections have been withdrawn
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	
Refusal of an Application for the Variation of the terms, conditions or restrictions on	All cases	

<b>Matter to be dealt with</b>	<b>Sub Committee* (see note below)</b>	<b>Officers</b>
or subject to which the licence is held for any type of Sex Establishment Licence.		
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 Chairman and Vice-Chairman/men*

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.

**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		
2	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) (Determination of application for	5 working days commencing day	10 working	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>
	transfer of premises licence)	after period within which police may object	days	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>	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>
Page 88	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	The relevant representations that have been made	5 working days before day on which hearing is held
				Persons who have made relevant representations		
				Person who asked for the review		
	11  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
16	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		2 working days before day on which hearing is held
				Police		
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		2 working days before day on which hearing is held
				Police		
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		2 working days before day on which hearing is held
				Police		

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**LICENSING ACT 2003 – HEARING PROCEDURE**

**Pre-Hearing Matters**

1. Declaration of Interests
2. Chairman will introduce members of the Hearing Panel
3. Chairman 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 Chairman will ask all parties to the Hearing whether they wish to withdraw their application or representation.
5. The Chairman 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 Chairman 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 Chairman's opinion render it necessary and appropriate for the said material to be presented to the Hearing Panel. In this regard the Chairman's decision will be final.
6. The Chairman 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. He 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 Chairman 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 Chairman, and only through the Chairman of the Hearing, each party may raise questions of any other party or witness/witnesses.
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 Chairman 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 5 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 5 working days after the Hearing date.
7. In the event of the Licensing Authority making its determination at the conclusion of the Hearing the Chairman 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 of this constitution and in the Overview and Scrutiny Procedure Rules.

### **Joint Committees / Panels:**

#### **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

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

### 1. Membership and Meeting Arrangements

This is a Joint Committee between Forest Heath District Council and St Edmundsbury Borough Council. Membership of the joint Committee will comprise six Members, three from each Authority. In addition, each Authority will be able to appoint one Substitute Member.

The Committee will be appointed annually by the full Council and will be politically balanced.

Any Member of the Council may serve on the Committee provided that they are not also a Member of the Joint Officer Appointments Committee.

The Committee will appoint its own Chairman and Vice Chairman.

The Committee will meet on an ad hoc basis as required.

### 2. Functions/Remit

To consider appeals against dismissal and grievances by Chief Officers of Forest Heath District Council and St Edmundsbury Borough Council.

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

### 1. Membership and Meeting Arrangements

This is a Joint Committee between Forest Heath District Council and St Edmundsbury Borough Council. Membership of the Joint Committee will comprise six Members, three from each authority. In addition, each Authority will be able to appoint one Substitute Member.

The Committee will be appointed annually by the full Council and will be politically balanced.

Any Member of the Council may serve on the Committee provided that they are not also a Member of the Joint Officer Appeals Committee.

The Committee must also contain at least one Member of the Cabinet.

The Committee will appoint its own Chairman and Vice Chairman.

The Committee will meet on an ad hoc basis as required.

## 2. Functions/Remit

To deal with the appointment, discipline and termination of employment of Joint Directors of Forest Heath District Council and St Edmundsbury Borough Council.

### **C.4 West Suffolk Joint Health and Safety Panel**

#### **1. Overview**

- 1.1 The Panel's membership will be drawn from Councillors and staff of both Forest Heath District Council (FHDC) and St Edmundsbury Borough Council (SEBC).
- 1.2 The Panel will consider both Authorities' health and safety arrangements and provide guidance to support the development of executive action by officers of both authorities, including policy guidance.
- 1.3 To provide a group of Members who can develop an enhanced level of understanding of health and safety matters.
- 1.4 To make recommendations to the Cabinets and/or officers of both authorities about policies and actions required to develop and maintain effective health and safety arrangements.

#### **2. Constitution**

- 2.1 The West Suffolk Joint Health and Safety Panel shall comprise 12 Members. Three Councillors from both Forest Heath District Council (FHDC) and St Edmundsbury Borough Council (SEBC), to be the 'Employers' Side'. Six members of staff from across the two Authorities to be the 'Employees' Side', drawn from the officer Joint Health and Safety Group.
- 2.2 A Substitute Member from each Authority on the Employer's side and two Substitutes from the Employees' Side to provide a total of

six full Members and two Substitute Members on each 'Side' shall be permitted.

- 2.3 It shall be the Health and Safety Manager's duty to attend and advise the Panel.
- 2.4 The Panel shall appoint a Chairman and Vice-Chairman from its Members. When the Chairman is a Member of one side of the Panel, the Vice-Chairman shall be a Member of the other side.
- 2.5 The Panel may invite attendance of 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.

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

- 3.1 The Panel shall keep under review all matters relating to the health, safety and welfare of the Councils' employees, and to the protection of other persons against risks arising out of the work activities of the employees and of persons working under contract.
- 3.2 To review and monitor the Joint Health and Safety Policy and recommend amendments to the Officers and/or Cabinet of both authorities in accordance with their respective schemes of delegation. Specifically, the Panel will work directly with the Health and Safety Manager to review and implement revisions to the operational instructions and annexes contained in Part 5 of the Policy ("Arrangements") under his/her delegated authority to make such changes.
- 3.3 Without prejudice to the foregoing terms, items for particular consideration may include:-
  - (a) the study of accidents and diseases, and in particular those notifiable to the Health and Safety Executive;
  - (b) considering and making recommendations in respect of items submitted by the staff Joint Health and Safety Group;
  - (c) consideration of reports and information from the Inspectors of the Health and Safety Executive;
  - (d) consideration of reports submitted by Safety Representatives;
  - (e) the development of safety procedures and safe systems of work;
  - (f) recommending and monitoring the effectiveness of employee safety training;
  - (g) the presentation of publicity on safety matters; and
  - (h) inspecting or arranging for an inspection of any particular area or activity.



#### **4. Arrangements and Procedures**

- 4.1 Meetings shall normally be held three times a year but, exceptionally, the Chairman may decide, after consultation with the Health and Safety Manager, 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 a venue in SEBC and FHDC or as agreed by the Panel.
- 4.2 Agendas shall be prepared by the Democratic Services Section, after discussion with the Health and Safety Manager, and shall be made available at least five days before the meeting.
- 4.3 The quorum for the Joint Health and Safety Panel shall be four, comprising at least two employee representatives, and two Members, one from each authority.
- 4.4 Voting shall be by a show of hands and simple majority.
- 4.5 The report from the Joint Health and Safety Panel to the respective Cabinets shall be by way of presentation of the minutes or in a format agreed by 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.5 West Suffolk Joint Staff Consultative Panel**

##### **1. Overview**

- 1.1 The Panel's membership will be drawn from Councillors and staff of both Forest Heath District Council (FHDC) and St Edmundsbury Borough Council (SEBC). 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 both Authorities' staffing arrangements and provide a regular forum to secure the largest measure of agreement between the Councils as employers and Trade Union employees regarding matters directly affecting employment by the Councils.
- 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 Cabinets of both authorities about policies and actions required to develop and maintain effective employee/employer arrangements.

## **2. Constitution**

- 2.1 The Joint Staff Consultative Panel shall comprise 12 Members. Three Councillors from both FHDC and SEBC, which desirably reflects the political balance of each Council, to be the 'Employers' Side'.
- 2.2 Six members of staff from across the two Authorities 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 Authorities 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 Authorities 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 from each Authority on the 'Employers' Side' and four Substitutes shall be permitted from the 'Employees' Side' to provide a total of six full Members and four substitute Members on each 'Side'.
- 2.6 It shall be the duty of a senior Human Resource Officer to attend and advise the Panel.
- 2.7 The Panel shall elect a Chairman and Vice-Chairman from its Members. When the Chairman is a Member of one Side of the Panel, the Vice-Chairman shall be a Member of the other Side. The Chairman of the Panel shall be rotated on an annual basis between the Employees' and Employers' Side. The Chairman 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 Chairman and Vice Chairman.

### **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 Councils, 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;
- (g) personnel procedures including recruitment, sickness, discipline and handling of grievances and redundancies;
- (h) training & development of employees;
- (i) equality issues; and
- (j) any issue referred to the Joint Staff Consultative Panel by the Cabinets.

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 Joint Staff Consultative Panel shall be in accordance with the voting arrangements set out in paragraph 5.4 below and shall be subject to the approval of the Cabinets, as provided for by the Councils' Schemes of Delegation.

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

5.1 Meetings shall normally be held quarterly but, exceptionally, the Chairman 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 a venue in SEBC and FHDC or as agreed by the Panel.

5.2 Agendas shall be prepared by the appropriate Committee Services Section, after discussion with a senior Human Resources Officer, Chairman and Vice Chairman, and shall be circulated at least five working days before the meeting.

- 5.3 The quorum for the Joint Staff Consultative Panel shall be four, comprising at least two Employee representatives and two Members, one from each Authority.
- 5.4 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.
- 5.5 The report from the Joint Staff Consultative Panel to the respective Cabinets shall be by way of presentation of the minutes/draft minutes or by way of a brief report in a format agreed by the Cabinet.
- 5.6 If the Panel is unable to agree and no local settlement can be achieved, the matter may be referred by either side to the Cabinets.

*(\*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.6 West Suffolk Joint Standards Committee**

### **1. Membership and Meeting Arrangements**

This is a Joint Committee between Forest Heath District Council and St Edmundsbury Borough Council. Membership of the Joint Committee will comprise six Members, three appointed by each Authority.

To ensure a wide representation across the Authorities, political balance rules do not apply to this Committee.

### **2. Functions/Remit**

The Joint Standards Committee will have the following roles and functions in respect of both Forest Heath District Council and St Edmundsbury Borough Council:-

- (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.
- (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 Forest Heath and the Borough of St Edmundsbury.

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

### **C.7 West Suffolk Joint Independent Remuneration Panel**

To make recommendations to Forest Heath District Council and St Edmundsbury Borough Council on Members' Allowances as set out in the Local Authorities (Members' Allowances) (England) Regulations 2003.

To consider the existing scheme of allowances for Members and to prepare a report for submission to the District and Borough Councils recommending a scheme of allowances encompassing:

1. Basic allowance of Members.
2. Special responsibility allowances for Members who have special responsibilities.
3. Travel and subsistence allowances.
4. Child Care and Dependent Carers' allowances.
5. Co-optees allowances.
6. Annual adjustment/increase of allowances.
7. Any other issues that the Panel deem to be appropriate.

In addition, the Panel may wish to consider the following criteria when taking into account the review of the allowances:

1. Comparisons with allowances paid by other Suffolk Authorities.
2. Workload and level of responsibility.
3. Affordability.

*Note: The Members' Allowances for both Forest Heath District Council and St Edmundsbury Borough Council to remain as two separate schemes.*

### **Committees/Sub-Committees/Working Parties**

#### **C.8 Democratic Renewal Working Party**

1. Membership and Meeting Arrangements

The composition of the Working Party shall reflect the political group representation on the Council.

Any Member of the Authority may serve on the Working Party.

The Working Party will be appointed and meet as and when required.

2. Functions/Remit

The terms of reference of the Democratic Renewal Working Party are to:

- (a) recommend changes to the Council's decision making structure and procedures at Council meetings;
- (b) recommend amendments to the Council's Constitution;
- (c) advise on electoral matters;
- (d) review appointment procedures to outside bodies; and
- (e) further local democracy and citizenship, including guidance for officers on arrangements for Local Democracy Week.

## **C.9 Mayoral Advisory Committee**

1. Membership and Meeting Arrangements

Seven Members of the Authority appointed annually by the Proper Officer in accordance with the nominations of Group Leaders. The composition of the Committee shall reflect the political group representation on the Council, the Mayor to be consulted as necessary.

Any Member of the Authority may serve on the Committee.

The Committee will be appointed and meet as required prior to the Annual meeting of the Council.

2. Functions/Remit

- (a) To make a nominations direct to the Council regarding the selection of the Mayor and Deputy Mayor of the Borough.
- (b) To consider matters associated with the guidance set out in the Mayoralty Protocol contained in the Constitution.

## **C.10 Treasury Management Sub-Committee**

**1. Remit**

- 1.1 The Treasury Management 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.

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

- 2.1 The Treasury Management Sub-Committee will comprise three Members and one substitute Member of the Performance and Audit Scrutiny Committee and is politically balanced.
- 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 full Council), and will appoint its own Chairman.
- 2.4 The Sub-Committee will meet at least three times each year, although meetings may be cancelled 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.

### **C.11 Grant Working Party**

To consider grant applications and recommend the level of grants payable to organisations to officers or the Cabinet, based on the policies agreed by Council and in accordance with the criteria for Community Chest Grant funding and Rural Area Initiative Grant funding.

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## St Edmundsbury Borough Council

### Section 3 - Responsibility for Cabinet functions

3.1 Executive functions will be performed by the Cabinet. These functions will be grouped together in the form of Cabinet portfolios, the number and scope of which will be agreed by the Leader. The Leader will also allocate responsibility for the portfolios among the individual Members of the Cabinet, on an annual basis.

3.2 The Cabinet Portfolios and areas of responsibility are as follows:-

<b>Portfolio</b>	<b>Areas of Responsibility</b>
Leader of the Council	<ol style="list-style-type: none"> <li>1. Leadership and strategic direction of the Council</li> <li>2. External relations and communications</li> <li>3. Strategic economic development</li> </ol>
Families and Communities	<ol style="list-style-type: none"> <li>1. Corporate communications</li> <li>2. Corporate strategy/planning and co-ordination</li> <li>3. Crime and community safety</li> <li>4. Customer Services, access and engagement</li> <li>5. Equalities and diversity</li> <li>6. Families and Communities</li> <li>7. Future of public services and service integration</li> <li>8. Health</li> </ol>
Future Governance	<ol style="list-style-type: none"> <li>1. Civic Office</li> <li>2. Democratic Services, including:                             <ul style="list-style-type: none"> <li>- Cabinet management and support</li> <li>- Scrutiny management and support</li> </ul> </li> <li>3. Elections</li> <li>4. Member Development and Training</li> <li>5. Implementing a single Council for West Suffolk</li> </ol>
Deputy Leader with responsibility for Housing ( <i>also lead on housing for FHDC</i> )	<ol style="list-style-type: none"> <li>1. Choice based lettings</li> <li>2. Homelessness advice</li> <li>3. Public health</li> <li>4. Safeguarding</li> <li>5. Social care</li> <li>6. Strategic housing (including private sector housing and DFG policy)</li> </ol>
Leisure and Culture	<ol style="list-style-type: none"> <li>1. Heritage and culture</li> <li>2. Parks and open spaces (including trees)</li> <li>3. Sport</li> </ol>

<b>Portfolio</b>	<b>Areas of Responsibility</b>
Operations	<ol style="list-style-type: none"> <li>1. Car parking</li> <li>2. CCTV</li> <li>3. Cemeteries</li> <li>4. Fleet management</li> <li>5. Grounds maintenance</li> <li>6. Land drainage</li> <li>7. Markets (delivery)</li> <li>8. Operations</li> <li>9. Property services and estate management</li> <li>10. Public conveniences</li> <li>11. Refuse/recycling</li> <li>12. Street scene</li> <li>13. Tourism (operations)</li> </ol>
Planning and Growth	<ol style="list-style-type: none"> <li>1. Building control</li> <li>2. Conservation</li> <li>3. Development control</li> <li>4. Economic development</li> <li>5. Enforcement</li> <li>6. Environmental health</li> <li>7. Growth areas and regeneration</li> <li>8. Licensing</li> <li>9. Planning policy</li> <li>10. Rural development</li> <li>11. Tourism (strategic)</li> <li>12. Town centres</li> </ol>
Resources and Performance	<ol style="list-style-type: none"> <li>1. Business development/commercial</li> <li>2. Financial services (including audit)</li> <li>3. Health and safety</li> <li>4. Human resources (including payroll)</li> <li>5. ICT</li> <li>6. Legal services</li> <li>7. Performance and risk management</li> <li>8. Procurement</li> </ol>

### 3.3 Joint Executive Arrangements

3.3.1 The Leader has established joint arrangements with the Leader of Forest Heath District Council for the discharge of executive functions through the Joint Executive (Cabinet) Committee. All matters which are to be performed by Cabinet as a collective are delegated to the Joint Executive (Cabinet) Committee to exercise, unless either Leader notifies that the matter or function shall not be delegated to the Joint Executive (Cabinet) Committee to make.

3.3.2 The Joint Executive (Cabinet) Committee shall consist of the Leader and the Portfolio Holders of both Forest Heath District Council and

St Edmundsbury Borough Council and shall operate until 1 April 2019.

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## St Edmundsbury Borough Council

### Section 4 - Scheme of Delegation to Officers

#### A. General

1. This section of the Scheme for the Responsibility for Functions delegates powers and duties of St Edmundsbury Borough Council/Forest Heath District Council to Officers under Section 101 of the Local Government Act 1972, and all other powers enabling delegations, but is not intended to be by way of limitation of the powers provided in that Section.
2. It is also adopted with the intent that it shall lead to a streamlining and simplification of the processes of the Council and, accordingly, it should be interpreted widely rather than narrowly.
3. Where broad functional descriptions are used, the delegations in this scheme should be taken to include powers and duties within all present and future legislation, and all powers incidental to that legislation, including the incidental powers and duties under Section 111 of the Local Government Act 1972.
4. This scheme of delegations shall operate in addition to any previous, or short-term, delegations. Prior to each update of this document, it may also be superseded by revised or new delegations, properly agreed in accordance with the Council's Constitution but not yet incorporated.
5. In this scheme of delegations any reference to a specific Statute, Statutory Instrument, Regulation, Byelaw, Order, or any section, article, paragraph or part thereof, shall be deemed to incorporate reference to any enactment amending, re-enacting, or replacing the same.
6. Any reference to the masculine includes the feminine and vice versa.

#### Overall Limitations

7. This scheme does not delegate to Officers:-
  - (a) any matter reserved by law to the Council, the Cabinet, a Committee or Sub-Committee of the Council; and
  - (b) any matter which is specifically excluded from delegation by the scheme or by resolution of the Council or Cabinet.
8. 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**

9. Any Officer with delegated powers in this scheme is also authorised to further delegate in writing all or any of the delegated functions to other officers (described by name or post) either fully or under the general supervision and control of the delegating officers. 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**

10. It shall always be open to an Officer not to exercise his or her delegated powers but to refer the matter to the Council, Cabinet, or relevant Committee (as appropriate) for decision.
11. In exercising delegated powers, Officers shall consult other Officers as appropriate and have regard to any advice given. 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.
12. 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).

### **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:

**Assistant Director (Resources and Performance)** – 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.

**Other Assistant Directors** – the powers shall be exercisable by a Director.

**Service Managers** – the powers shall be exercisable by the relevant Assistant Director.

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## **B. 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 Chief Finance 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 Performance and Audit Scrutiny Committee.

- (b) Prepare and submit the annual budget to full 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 full Council in accordance with his or her responsibilities under Section 151 of the Local Government Act 1972.

### 1.3.2 Assistant 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 Assistant 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 **Chief Finance 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 Assistant 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 Chief Officer. 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 Performance and Audit Scrutiny Committee on the authority's projected income and expenditure compared with the budget on a regular basis.
  - (d) Where an Assistant Director is unable to balance expenditure and resources within existing approved budgets under his or her control, to submit reports to the Performance and Audit Scrutiny Committee, in consultation with the relevant Chief Officer.

### 2.3.2 Assistant 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 Head of Service (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 relevant Assistant Director where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Head of Service 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 Chief Finance 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 Assistant 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.

## **C. The Chief Executive**

The Chief Executive has been appointed the Council's Head of Paid Service.

The following powers and duties are delegated to the Chief Executive. With the exception of (d) below, for which there are separate arrangements, if he or she is absent or otherwise unable to exercise the delegation, they may be exercised by one of the Directors. In the case of (a) below, should the Chief Executive and both Directors be absent or unable to act, the power may be exercised by an Assistant Director.

- (a) Where, in his/her opinion, by reason of limitation of time or urgency, a decision is required on any matter, after such consultation as he/she considers necessary (or as is required by the Council's Budget and Policy Framework Procedure Rules in Part 4 of this Constitution), he/she 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.
- (b) To issue and renew authorisations for Officers and appoint Inspectors to enter premises for the purpose of their official duties in pursuance of statutory provisions in that behalf.
- (c) After consultation with the Assistant Director (Human Resources, Legal and Democratic Services) and the Monitoring Officer to make revisions and amendments to the list of Politically Restricted Posts maintained under Section 2 of the Local Government and Housing Act, 1989 and to give Certificates of Opinion in connection with applications for exemption.
- (d) To act as Returning Officer, and any variation thereof as appropriate to different elections, and to appoint from time to time such Deputy Returning Officers as appear necessary for the proper conduct of elections; and to act as the Electoral Registration Officer. In the event that the Chief Executive is absent or incapacitated, the proper officer for the purposes of exercising the functions of the Electoral Registration Officer shall be the Elections Manager.
- (e) Within approved budgets, to determine all fees for functions carried out in respect of electoral registration and elections.
- (f) Update the Strategic Plans at any time with new performance and demographic information, or to reflect formal changes to the Council's policy framework, budgets or other documents in the strategic planning framework.
- (g) To review and update the operational elements of the Equality Framework contained within Sections 2 to 7 as necessary, in consultation with the Portfolio Holder for Performance and Resources (or equivalent).

- (h) In consultation with the Leader and the Assistant Director (Human Resources, Legal and Democratic Services), to designate an Officer of the Council as its Monitoring Officer.
- (i) Update the Strategic Plans at any time with new performance and demographic information, or to reflect formal changes to the Council's policy framework, budgets or other documents in the strategic planning framework.
- (j) Review and update the operational elements of the Quality Framework contained within Section 2 to 7 as necessary, in consultation with the Portfolio Holder for Performance and Resources (or equivalent).



## **D. All Chief Officers (including Chief Executive)**

*For the purposes of this section, "Chief Officer" shall be taken to mean the following officers:-*

*Chief Executive*

*Directors*

*Assistant Directors*

Monitoring Officer (as required)

1. Where the Council, Cabinet or a Committee has settled the policy and/or budget for a matter or class of matters, each Assistant Director shall be empowered to deal with such matters within the limits of such policy or budget, including the supervision of contracts and works and responding on behalf of the authority to consultation exercises.
2. All Chief Officers also have specific authority:-
  - (a) Provided that it does not constitute a Key Decision (as defined in Article 12 of the Constitution), to undertake virements of up to £50,000 on behalf of the Cabinet in any one case between the budgets under their control, subject to consultation with the relevant Portfolio Holder(s) and the Leader and the Chief Finance Officer; such virements should be non-recurring and must not include asset rental or fixed percentage maintenance budgets, interest income or recharges which have implications elsewhere in the budget, and must be confirmed in writing to the Chief Finance Officer in a format approved by him/her and reported to Performance and Audit Scrutiny Committee via budget monitoring reports.
  - (b) To invite tenders and quotations; and to make exemptions to the Contracts Procedure Rules (in accordance with the requirements of those Rules in respect of exemptions) for the purchase or sale of goods and services relating to matters within their purview.
  - (c) In accordance with approved policies and procedures, within approved budgets and in consultation with the Assistant Director (Human Resources, Legal and Democratic Services):-
    - (i) to make appointments and terminations within their respective establishments, subject to compliance with the appropriate National or Local Scheme of Conditions of Service;
    - (ii) to re-designate posts, as necessary, to meet corporate and service objectives;
    - (iii) to establish externally funded posts or those fully reimbursed through income generation for the duration of the funding;

- (d) To take such action as they consider necessary, in respect of grievance and disciplinary procedures, but, in the case of dismissal only, subject to the agreement of the Assistant Director (Human Resources, Legal and Democratic Services).
  - (e) To attend and to authorise the attendance of staff at meetings, conferences and seminars; and, within the approved departmental estimates and after consultation with the Learning and Development Advisor (HR) to approve training/study courses and day release for study purposes delivered through the Corporate Training Plan.
  - (f) Where they are responsible for the provision of an in-house service, to be responsible for deciding whether work related to that service should be contracted out.
  - (g) To appoint consultants within budgetary limits and constitutional and contract procedure rules in consultation with the Assistant Director (Human Resources, Legal and Democratic Services), subject to the West Suffolk Contract Procedure Rules as applicable.
  - (h) Following such consultation as they consider appropriate, to vary the hours or days during which buildings or services are to be available to the public.
  - (i) Within existing budget allocations and policies, to determine any applications for grants, contributions and subscriptions to voluntary and other organisations not already covered by specific delegations in this scheme, up to a maximum of £10,000 in any one case and subject to consultation with the relevant Portfolio Holder(s).
  - (j) To approve supplementary estimates by drawing on any working balances allocated to their control up to a limit of £5,000 in each case, following consultation with the Chief Finance Officer and the relevant Portfolio Holder(s) (or Committee Chairman in the case of any budget allocated to the control of a Committee). Any notifications to or consultations with the Chief Finance Officer and Portfolio Holders are to be made or confirmed in writing.
3. The Chief Officer, or his nominated representative(s), shall have the power to negotiate sponsorship initiatives in accordance with the Sponsorship Policy. Upon successful completion of negotiations there shall be a written contract entered into after consultation with the Service Manager (Shared Legal).
4. Chief Officers of support services are authorised to utilise credit balances on support service accounts as follows:-
- (a) to correct or adjust charges made to in-house client departments; and

- (b) to acquire occasional goods and services to facilitate provision of the support service without making a charge to in-house client departments, subject to all such transactions being confirmed in writing to the Chief Finance Officer, following initial consultation; and the Chief Finance Officer having delegated authority to make and amend a scheme governing such transactions should s/he consider it necessary.
5. Chief Officers, in consultation with the Chief Finance Officer, are authorised to utilise credit balances on the reserve accounts within their area of responsibility to finance expenditure relating to the purpose of the reserve.
  6. Chief Officers are authorised to produce short annual Business Plans in consultation with the relevant Portfolio Holders using the approved format and to publish them on the Council's website/intranet.
  7. To receive expressions of interest under the provisions in Chapter 2, Part 5 of the Localism Act 2011 and described in the Community Right to Challenge (Fire and Rescue Authorities and Rejection of Expressions of Interest) (England) Regulations 2012 and the Community Right to Challenge (Expressions of Interest and Excluded Services) (England) Regulations 2012.
  8. Following consultation with the relevant Portfolio Holder(s), to make any minor typographical, grammatical, factual or contextual changes to any policies or strategies approved through Cabinet or full Council, provided they do not materially affect the meaning of the document.
  9. Notwithstanding the previous paragraphs Directors and the Chief Executive shall have the power to stand in for Assistant Directors in relation to other issues not specified including:
    - SIRO
    - Emergency Planning
    - Health & Safety
    - Sports Centres
    - Arts

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## **Scheme of Delegation to Officers**

### **Assistant Director (Families and Communities)**

#### **(a) Counter Terrorism and Security Act 2015 - Prevent duty**

In accordance with Section 26 of the Act and the duty on Local Authorities in the exercise of their functions to have regard to the need to prevent people from being drawn into terrorism.

Enforcement of the duty will be inspected by the Home Office who will:

- Oversee compliance – there is an expectation that local authorities will maintain appropriate records to show compliance with their responsibilities and provide reports when requested.
  - Scrutinise action plans and project impact
  - Identify any gaps and request that remedial work is undertaken with Local authority peers to provide targeted assistance and help authorities develop good practice
  - Gather data from specified authorities
  - Issue direct guidance if there is non-compliance with the duty.
1. To prepare and maintain the Action plan on behalf of the Council to ensure it includes the following:
    - Partnership working
    - Risk assessment
    - Staff training
    - Collaboration in two tier local authorities
  2. To ensure that there is compliance on the part of the Council's duties to prevent a serious case review and direct interventions from the Home Office.

#### **(b) Localism Act**

1. To discharge the relevant duties under the Localism Act 2011 relating to the Assets of Community Value (England) Regulations 2012 and other updated legislation in that regard.

#### **(c) The Anti-Social Behaviour, Crime and Policing Act 2014**

1. To ensure the Council implements the requirement to hold ASB case reviews, known as 'community trigger'. The trigger introduces a right for victims or victims' representatives to ask local agencies to review how they have responded to previous ASB complains and consider what further action might be taken where behaviour persists.
2. To use discretion to deal with the preparation of 'Closure Orders' which could be used to close a premises temporarily, for up to six months.

3. To use discretion to deal with 'Public Spaces Protection Orders' to deal with anti-social behaviour in a public place to apply restrictions to how that public space can be used.
4. To use discretion to deal with 'Crime Prevention Injunction Order' in consultation with the Monitoring Officer where the circumstances demand. (Injunctions of this type would also have prohibitions and support attached, and a range of civil sanctions for breach.)
5. To use discretion to deal with 'Community Protection Notices' to deal with particular problems which negatively affect the community's quality of life, including directing the person responsible to stop causing the nuisance and/or require them to 'make good'.

**(d) Housing**

1. Determine applications for homeless persons under the Housing Act 1996 as amended by the Homelessness Act 2002 and procure and/or manage temporary accommodation in support of the homeless function.
2. Administer the Housing Register and nominate applicants to properties owned by Registered Providers (RPs) in line with the approved Allocation Scheme.
3. Where appropriate, write-off rent and rent deposit arrears up to a maximum sum specified by the Assistant Director (Resources and Performance).

**The Assistant Director (Families and Communities) makes the following sub-delegations to Officers:**

**(I) Sub-delegations to be exercised by officers *in addition to* the Assistant Director (Families and Communities):**

**1. Service Manager (Housing Options)**

- (a) Determine applications for homeless persons under the Housing Act 1996 as amended by the Homelessness Act 2002 and procure and/or manage temporary accommodation in support of the homeless function.
- (b) Administer the Housing Register and nominate applicants to properties owned by Registered Providers (RPs) in line with the approved Allocation Scheme.
- (d) Where appropriate, write-off rent and rent deposit arrears up to a maximum sum specified by the Assistant Director (Resources and Performance).

**(e) Other issues**

1. To administer the Rural Initiatives Fund in accordance with the agreed procedure.
2. To be responsible for administration of the Transparency Rules and Regulations.
3. To have responsibility for the preparation and maintenance of the Council's Publicity Protocol.

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## **Scheme of Delegation to Officers**

### **Assistant Director (Growth)**

#### **(1) Housing**

1. Determine levels of housing need, advise RPs and developers accordingly and pay capital grants to RPs to support development schemes within the Council's approved capital programme.

**The Assistant Director (Growth) makes the following sub-delegations to Officers:**

#### **(I) Sub-delegations to be exercised by officers *in addition* to the Assistant Director (Growth):**

##### **1. Service Manager (Strategic Housing)**

- (a) Determine levels of housing need, advise RPs and developers accordingly and pay capital grants to RPs to support development schemes within the Council's approved Capital Programme.

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## **Scheme of Delegation to Officers**

### **Assistant Director (Human Resources, Legal and Democratic Services)**

#### **(a) Assistant Director (Human Resources, Legal and Democratic Services)**

1. To act generally on all human resources issues, including representing the Council before external bodies.
2. In consultation with the relevant Assistant Director, to approve the grading of all posts and changes to the staffing establishment within agreed budgets or when the additional expenditure is funded from specific grants or other earmarked external sources of funding so that there will be no additional costs borne by the Council.
3. Within existing budgets, policies and agreements, and in consultation with the relevant Assistant Director to determine or approve matters relating to the terms, conditions or benefits of individual members of staff, including car allowances and minor changes to the scheme of relocation grants to secure the recruitment of key workers.
4. In accordance with approved Policies and Procedures, within approved budgets and in consultation with the relevant Assistant Director, to establish temporary posts to respond to peaks in workloads, cover for long-term sickness and maternity leave for periods of up to two years.
5. To delete posts on grounds of compulsory redundancy, when it is in the financial interests of the Council and/or where a post is redundant as defined in the Employment Rights Act 1996, subject to consultation with appropriate unions.
6. Within the terms of "Voluntary Early Retirement – General Scheme" to approve applications for early retirement, with the agreement of the relevant Assistant Director and Chief Finance Officer, subject to such applications being in the financial interest of the Council.
7. To amend Human Resources Policies to incorporate statutory requirements and as recommended in ACAS Codes of Practice in consultation with the Portfolio Holder and Trade Unions subject to being within agreed budget.
8. To implement alterations to conditions of service except where the terms thereof involve the exercise of a discretion by the Council.
9. To undertake consultations, negotiations and discussions with Trade Unions and where applicable Joint Staff Consultative panel on strategic and policy matters.

10. To manage and operate the Job Evaluation Scheme, including appeals.
11. To approve, and renew, short term honorarium payments within existing budgets, following consultation with the relevant Assistant Director.
12. To approve incremental advancement in accordance with the Councils PDR scheme or on the basis of sound conclusion that an incremental award is appropriate within existing policies and with consultation with the Assistant Director.
13. In respect of employees of the Authority, to act as the Council's Proper Officer in relation to the statutory provisions for criminal records and asylum and immigration.
14. To pay salary awards except where the terms thereof involve the exercise of a discretion by the Council.

**(b) Specified Officers**

**1. Service Manager (Health and Safety)**

1. To implement any recommendations of the West Suffolk Joint Health and Safety Panel in respect of amendments and additions to Part 5 (Arrangements) of the Joint Health and Safety Policy.

**2. Service Manager (Shared Legal)**

1. To act generally as the senior Lawyer to the Council and to be responsible for legal advice provided to the Council.
2. To institute, prosecute, defend arrange for representation and appear in all actions, cases, matters and proceedings of whatsoever nature in any Court of Law and to act, as such, in all proceedings, in the Lands and other Tribunals, all manner of arbitrations and Ministerial Inquiries and to compromise any legal proceedings which have started.
3. To seek injunctive relief with respect to Pay Parties and to sub-delegate this power to qualified lawyers in Legal Services in cases of urgency.
4. Authority to make, execute or attest all documents, deeds, contracts, instruments and notices for or on behalf of the Council in the absence of delegation to the contrary or in circumstances where the Officer to whom specific delegation has been given is absent or otherwise unavailable or unable to act.

5. Notwithstanding any other delegated authorities to specified officers elsewhere in this scheme, to authorise prosecutions and institute proceedings including the issue of a formal caution under any applicable statute, after consultation with the relevant Assistant Director.
6. To open tenders and quotations and, provided the total cost is within the approved estimate and any cost guideline, accept, after such consultation as is considered necessary:-
  - (a) the lowest with respect to the purchase of goods and services;
  - (b) the highest with respect to the sale of interests in land.
7. To accept, after such consultation as is considered necessary, tenders and quotations for contracts which, following negotiation, have been revised so that the total cost of the contract is within the approved estimate for the purchase of the goods and/or services in question, provided that the tender or quotation would otherwise have met the requirements of the Council's Contract Procedure Rules.
8. To deal with requests for assistance towards litigation costs from other Councils and those made by this Council after consultation with the Chief Finance Officer and the relevant Assistant Director.
9. To institute legal proceedings and take any other action necessary, under the Crime and Disorder Act, 1998.
10. To serve notices on business tenants and take any necessary action pursuant to the Landlord and Tenant Act 1954 to preserve the Council's position.
11. To institute proceedings for possession of land or property.
12. To institute proceedings for repossession of property in mortgage to the Council including the recovery of outstanding arrears.
13. To determine, in accordance with National Guidelines and the Rehabilitation of Offenders Act 1974, which convictions (if any) of an applicant for:-
  - (a) a Hackney Carriage or Private Hire Driver's Licence;
  - (b) a Motor Salvage Operator's Registration; and
  - (c) licences issued under the Licensing Act 2003

should be disregarded when determining such applications and which convictions (if any) should be removed from the record to be put before the relevant decision-making body.

14. To make a complaint to Magistrates for a Removal Order under Section 78 of the Criminal Justice and Public Order Act 1994.
15. To negotiate and settle miscellaneous disputes not covered by any statutory or contractual procedure and where no insurance implication exists up to a limit of £50,000 after consultation with the Chief Finance Officer and the relevant Assistant Director and the relevant Portfolio Holder.
16. To act for the protection of village greens and commons including the authorisation and institution of proceedings to protect village greens and commons.
17. To make all Public Path Orders where, following the usual informal consultation, there are no unresolved objections. In the event of there being objections which cannot be resolved, applications for Public Path Orders are to be referred to the Licensing and Regulatory Committee for decision.
18. To confirm as unopposed all Public Path Orders subject to there being no unresolved objections following formal consultation and advertisement. In the event of there being objections which remain unresolved, the orders shall be submitted to the Secretary of State for confirmation.
19. To make all Traffic Regulation Orders under the Traffic Regulation Acts and any other applicable legislation where, following appropriate consultations, there are no unresolved objections. In the event of there being objections which cannot be resolved, the proposal for the Traffic Regulation Orders shall be referred to the Licensing and Regulatory Committee for decision.
20. To make observations on and objections to applications to the Traffic Commissioner in relation to Goods Vehicle Licensing.
21. To institute proceedings for the recovery of debts.
22. To approve terms and conditions of agreements under Section 106 of the Town and Country Planning Act 1990 (as amended) and Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 regulating the development or use of land, in consultation with the Head of Planning and Regulatory.

23. To prepare and issue reports under Step 2 of the Council's Complaints Procedure and to reply to complaints referred to the Council by the Local Government Ombudsman.
24. To assume responsibility for general oversight of covert surveillance operations and be pro-active to ensure that reviews and cancellations are dealt with promptly.
25. To administer the procedures and exercise the Council's powers and responsibilities under the Data Protection Act 1998, Freedom of Information Act 2000 and Environmental Information Regulations 2004.
26. To fix the level of fees chargeable under the provisions of the Local Government (Access to Information) Act 1985 (after consultation with the Chief Finance Officer).
27. To discharge the relevant duties under the Localism Act 2011 relating to the Assets of Community Value (England) Regulations 2012.
28. To negotiate and settle miscellaneous disputes not covered by any statutory or contractual procedure and where no insurance implication exists up to a limit of £500 after consultation with the Chief Finance Officer and the relevant Assistant Director.
29. To determine applications for the making of Traffic Orders under Section 21 of the Town Police Clauses Act, 1847 relating to the temporary closure of roads after such consultations as considered necessary with the Assistant Director (Operations).
30. The functions of determining applications for certificates of lawful existing and proposed uses or development, in accordance with the provisions of Sections 191 and 192 of the Town and Country Planning Act 1990 (as amended).
31. To serve Listed Building Enforcement Notices, Urgent Repair Notices and Urgent Works Notices in respect of Listed Buildings, and Building Preservation Notices for unlisted buildings pursuant to the Planning (Listed Buildings and Conservation Areas) Act 1990 after consultation with the Head of Planning and Regulatory.
32. To serve Enforcement Notices and, if the Head of Planning and Regulatory is satisfied that the Notice has been complied with, to withdraw such Notices.
33. To serve Discontinuance Notices relating to advertisements.

34. To make the following Orders after consultation with the Head of Planning and Regulatory where they are unopposed and compensation is not payable:-
  - (a) for the revocation or modification of Planning Permission;
  - (b) requiring the discontinuance of use or alterations or removal of buildings or works.
35. To authorise the issue of and to serve Stop Notices after such consultation as is considered necessary.
36. To issue and serve notices in respect of land, the condition of which, adversely affects the amenity of an area in accordance with the provisions of Section 215 of the Town and Country Planning Act 1990 (as amended).
37. To issue and serve Completion Notices in accordance with the provisions of Section 94 of the Town and Country Planning Act 1990 (as amended).
38. After consultation with the Head of Planning and Regulatory to make, vary, allow to lapse and/or revoke Tree Preservation Orders (including the making provisional orders under Section 201 of the Town and Country Planning Act 1990) and to confirm (with or without modification) unopposed Tree Preservation Orders (including, in each instance, the service of the necessary Notices).
39. To make and serve Notices that buildings have been added to, or deleted from, the List of Buildings of Special Architectural or Historical Interest by the Secretary of State, or that the Secretary of State has amended such listings.
40. To serve requisitions for information as to interests in land under Section 330 of the Town and Country Planning Act 1990 and Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
41. Be authorised to, where appropriate, revoke or refuse to renew a Hackney Carriage or Private Hire Vehicle Licence following an unit vehicle notice in accordance with s.68 and s.60(1)(a) of the Local Government (Miscellaneous Provisions Act 1976).

### **3. Lawyers**

1. All Lawyers in the Legal Team to appear in any action, case, matter or proceedings as an advocate for the Council (so far as the Rights of Audience will allow) and any Trainee Solicitor to represent the Council in the County Court in respect of



interlocutory applications and small claims procedure and in the Magistrates' Court in respect of prosecutions resulting from contraventions of the Parking Places Orders and other procedural matters as required by the Service Manager (Shared Legal).

2. As well as the Service Manager (Shared Legal), all Lawyers to decide which convictions (if any) of an applicant for a hackney carriage, private hire driver's licence, a motor salvage operator's registration or Licences issued under the Licensing Act 2003, should be removed from the record to be put before the relevant decision-making body.

#### **4. Service Manager (Democratic Services and Monitoring Officer)**

1. To act as the Monitoring Officer of the Council (under the terms of the Local Government and Housing Act 1989, Local Government Act 2000, Part 10 of the Local Government and Public Involvement in Health Act 2007 and Localism Act 2011 and as defined in the Articles and Rules of Procedure of this Constitution) and generally as the Proper Officer of the Council, particularly in relation to the Council's decision-making processes and this Constitution, unless, in the case of the latter role, the Council has provided otherwise in specific cases, and to be responsible for advising the Council on its procedural and administrative affairs.
2. To approve attendance of Members serving on Outside Bodies as an approved duty where appropriate.
3. To approve, as an approved duty, after such consultation as considered necessary, attendance by Members at a meeting, provided that the meeting complies with The Local Government (Committees and Political Groups) Regulations 1990.
4. To record the Members appointed to Committees in accordance with the political group representation on the Council as required by the Local Government (Committees and Political Groups) Regulations 1990.
5. When necessary, to appoint and re-appoint Members to serve on Committees, Sub-Committees, Working Parties, Panels and Review Groups (in accordance with the Political Balance Regulations and on the basis of the appropriate nominations of the political groups on the Council) and to convene meetings thereof.
6. To appoint and re-appoint Members to serve on the Mayoral Advisory Committee (in accordance with the Political Balance Regulations and on the basis of the appropriate nominations

of the political groups on the Council) and to convene meetings thereof.

7. To appoint a Joint Panel of four Councillors to advise on the appointment, and terms and conditions, of members of the Independent Remuneration Panel in accordance with the nominations of the leaders of political groups on the Council.
8. To seek candidates for the Independent Remuneration Panel and, in consultation with the Councillor Panel, to determine its terms and conditions and to make appointments thereto.
9. In consultation with the Chairman of the Democratic Renewal Working Party, to make minor amendments and additions to the Mayoralty Protocol as necessary from time to time.

## **5. Elections Manager**

1. On behalf of the Chief Executive (or any other person appointed as Returning Officer or Acting Returning Officer), to deal with all matters concerning elections and electoral registration, (except the determination of electoral registration and election fees) and, prior to the adoption by the Council of draft or final recommendations/proposals, to deal with all matters concerning electoral, boundary and parish reviews.
2. To make Removal of Difficulty Orders pursuant to the Representation of the People Act, 1983 following consultation with the Borough Councillor(s) for that Ward.

## **Scheme of Delegation to Officers**

### **Assistant Director (Operations)**

All of the following powers and duties are delegated to the Assistant Director (Operations), as well as to the specified Officers:

**(a) All Operations Service Managers Waste and Street Scene - Business, Waste and Street Scene – Operations, Property Services and Estate Management, Leisure and Culture - Operations)**

1. To sign contracts pursuant to the Local Authorities (Goods and Services) Act 1970 or any other related or amending legislation.

**(b) Service Manager (Waste and Street Scene - Business)**

2. To determine, as part of budget consultation with the Assistant Director (Resources and Performance), an appropriate scale of charges for trade refuse to reflect the actual average costs of collection, disposal, administration and the prices charged by local companies with which we are in competition.
3. To serve Litter Abatement Notices and Street Litter Control Notices, in appropriate cases, under Section 92 of the Environmental Protection Act 1990.
4. To negotiate and agree an appropriate level of recycling credit to reflect the actual saving on waste collection and waste disposal and average costs of administration.
5. To serve Fixed Penalty Notices under Section 88 of the Environmental Protection Act 1990.
6. To negotiate and determine charges for materials collected at the recycling centres.
7. To set the charges for replacement wheeled bins.
8. To exercise the Council's functions and duties pursuant to the Refuse Disposal (Amenity) Act 1978; including the service of Notices relating to the removal of abandoned vehicles.
9. To serve a Graffiti Removal Notice upon any person responsible for a defaced surface requiring the defacement to be removed, under Section 49 of the Anti-Social Behaviour Crime and Policing Act 2014.
10. To seek to recover from the person on whom a Graffiti Removal Notice was served expenditure reasonably incurred in exercising the remedying of the defacement.

11. Where appropriate, to impose fixed penalties on those responsible for a relevant offence falling under Section 132 of the Highways Act 1980 or Section 224(3) of the Town and Country Planning Act 1990.
12. To set and review the fee to be paid to a private contractor for the collection of abandoned vehicles in accordance with the budget.
13. To charge the sum for the removal, storage and disposal of abandoned vehicles, as prescribed by the appropriate Regulations where the owner of a vehicle is known.
14. To review on an annual basis the costs of supplying sacks and the charge for emptying a bin in accordance with the budget.
15. To take enforcement action under Section 46 of the Environmental Protection Act 1990, against householders who repeatedly contaminate their blue bin.

**(c) Service Manager (Waste and Street Scene - Business) and the Fleet and Technical Manager**

16. To give advice to client departments on the purchase of vehicles and plant.
17. To purchase vehicles and plant from the Vehicles and Plant Renewals Provision up to a maximum of £175,000 per item.

**(d) Service Manager (Operations - Waste and Street Scene)**

18. To manage the Council's Trade, Refuse and Recycling collection services, Cleansing, Bulky and bin delivery services.
19. To manage the Council's Grounds Maintenance and Tree services in accordance with the relevant Service Level Agreements.
20. To ensure frontline staff comply with Health and Safety Regulations.
21. To manage the Council's Provisions Markets, within the Market Licence Regulations, byelaws and business plan, including the grant of licences and permissions to trade. Review fees and charges in consultation with the Assistant Director (Operations) and markets traders, to determine the charges to be levied.

**(e) Service Manager (Property Services and Estate Management)**

22. To approve expenditure from a building repairs reserve working balance (if any) for urgent repair work after consultation with the Chief Finance Officer.
23. To submit applications for planning permission.

24. To carry out all consultations in relation to the naming and renaming of streets and public buildings in accordance with the West Suffolk Procedure (<http://www.westsuffolk.gov.uk/planning/upload/Street-Naming-and-Numbering-Procedures.pdf>)
25. To review the service charges relating to the CCTV system, on an annual basis, to reflect the actual cost of providing the control room service and the prices charged by other organisations that are in competition.
26. To approve the temporary restrictions of traffic or closure of highways and the making of the necessary orders and to sign notices required to implement such restrictions as a matter of urgency.
27. To authorise entry on the Council's landholdings for works pursuant to the Land Drainage Act 1976.
28. To make submissions to the relevant Government Department in connection with asset management planning.
29. To approve, after such consultation as considered necessary, the grant, renewal or variation of leases and grant of wayleaves over £50,000 annual value per transaction and the terms and conditions of sales, purchases, leases and other transactions relating to the Council's landholdings.
30. To approve the grant, renewal or variation of leases and grant of wayleaves and the terms of other transactions relating to the Council's landholdings up to £50,000 (annual value per transaction).
31. To approve terms and conditions of miscellaneous agreements relating to the Council's landholdings, including the grant of Wayleaves or Easements to statutory undertakers, after consultation with the relevant Assistant Director where appropriate.
32. To dispose of open space land in accordance with the Council's policy.
33. To approve as Estate Owner designs and site layouts of residential and industrial proposals on Council owned development land.
34. Manage in accordance with approved budgets and policies the maintenance, improvement and repair of the Council's housing properties.

**(f) Service Manager (Property Services and Estate Management) and the Car Park Services Manager**

35. To deal with day to day management of the Council's Car Parks including enforcement of the traffic orders and, after consultation with the Portfolio Holder and Assistant Director (Resources and Performance), to determine all parking fees and excess charges to be levied.
36. To set the annual level of charge for residents' parking permits for those householders where a charge is levied, in consultation with Suffolk County Council Highways, Assistant Director (Resources and Performance), the Local County Division Member and the Local Ward Member(s).
37. To carry out all consultations in relation to Traffic Regulation Orders (TROs) and speed limit orders on the Council's landholdings and respond on behalf of the Council to on-street TROs.
38. To issue permits in relation to Traffic Regulation Orders (TROs).

**(g) Service Manager (Operations - Leisure and Culture)**

39. In consultation with the relevant Portfolio Holder and the Assistant Director (Resources and Performance), to review and amend the policy framework for the hiring of, and charging, catering and contracting at, the Council's public halls and ticket pricing for its arts programming (including the Bury St Edmunds Festival), within existing Financial and Contract Procedure Rules.
40. To use income from the Gershom Parkington Bequest for the acquisition of appropriate additions to, and the maintenance of, the museum collection after such consultation as he considers necessary.
41. To purchase exhibits in consultation with the Assistant Director (Resources and Performance) for the museums from provisions set up for the purpose.
42. To make arrangements for the provision of entertainments subject to any limitations imposed by the Cabinet and after consultation with relevant Assistant Directors.
43. To dispose of items in accordance with Guideline 181 of the Museums and Galleries Registration Scheme for Museums in the United Kingdom.
44. To manage, maintain and control sports grounds, sports centres, parks, open spaces, cemeteries, disused churchyards and allotments in accordance with the agreed property strategy.

45. To liaise with the Abbeycroft Leisure Trust, and in consultation with the Assistant Director (Resources and Performance), in respect of the scale of charges for admission to the Leisure Centres and associated facilities necessary to achieve the Council's Corporate Leisure, Sport and Health Objectives.
46. To set and adjust, after consultation with the Assistant Director (Resources and Performance), the charges for use of sports pitches in line with market forces and within the approved annual guide to the level of income.
47. To set and adjust, after consultation with the Assistant Director (Resources and Performance), the scale of cemetery charges.
48. To set and adjust, after consultation with the Assistant Director (Resources and Performance), the charges for tours and payments to guides in respect of the Bury St. Edmunds "Blue Badge" Guide Scheme.
49. To adjust fees, charges and hours of opening of the Council's Museums and related facilities, in consultation with the Assistant Director (Resources and Performance).
50. To approve terms and conditions of loans and gifts of works of art and museum exhibits.
51. To amend stockholding levels in consultation with the Assistant Director (Resources and Performance).
52. With regard to Play Schemes, subject to a report being submitted to the subsequent meeting of the Cabinet:
  - (i) to accept, in appropriate circumstances, tenders other than the lowest; and
  - (ii) by negotiation, to omit from a successful tender scheme discretionary items above the minimum specified and substitute other equipment, provided the submitted tender price is not exceeded.
53. To deal with day to day management of Shopmobility.
54. To discharge the relevant duties under the Localism Act 2011 relating to the Assets of Community Value (England) Regulations 2012.

**(h) Service Manager (Operations - Leisure and Culture) and the Entertainment and Events Manager**

55. In accordance with the Council's Financial and Contract Procedure Rules, to interpret and implement the Council's agreed policy

framework (and to review, amend and implement operational policies and procedures) for:

- (a) catering; and
- (b) charging, hiring, contracting and ticketing.

at each of its public halls, and for its arts programming generally, in order to:

- (i) deliver the agreed objectives and financial targets of the public halls;
  - (ii) achieve best value for local taxpayers and maintain the competitiveness of the public halls and the Council's arts programming;
  - (iii) maintain the good reputation of the Council and help deliver its policy objectives;
  - (iv) maximise the standards and consistency of service received by users of the public halls; and
  - (v) reflect current and emerging practice in the public halls and arts markets.
56. To sign artists' agreements for all of the Council's arts programming (including festivals), subject to consultation with the Service Manager (Shared Legal) in respect of any agreement which is created by the artist or the artist's agents.
57. To interpret and implement the Council's agreed policies for charging, contracting and ticketing in relation to the Bury St Edmunds Festival and for any other arts programming arranged by the Council.
58. To sign artists' agreements for all of the Council's arts programming (including festivals), subject to consultation with the Assistant Director (Human Resources, Legal and Democratic Services) in respect of any agreement which is created by the artist or the artist's agents.

### **Enforcement**

59. In accordance with the following Acts, as amended by the Clean Neighbourhoods and Environment Act 2005:
- (a) Environmental Protection Act 1990 [Section 88(1)]
  - (b) Anti-Social Behaviour Act 2003 [Section 43]
  - (c) Anti-Social Behaviour Act 2003 [Section 43]
  - (d) Clean Neighbourhoods and Environment Act 2005 [Section 59]
  - (e) Dogs (Fouling of Land) Act 1996



The following suitably trained officers are authorised to issue fixed penalty notices:-

- Car Parks Manager
- Assistant Parking Services Manager
- Car Park Attendants
- Markets Supervisor
- Markets Officers
- Parks Manager
- Parks Development Manager
- Parks Development Officer
- Park Keepers
- Rangers
- Heritage Manager
- Heritage Officers
- Assistant Operations Managers
- Waste and Street Scene Enforcement Officers
- Waste and Street Scene Advisors
- Waste Development Officers
- Waste Strategy Officers

60. The following posts be authorised to inspect, test and where appropriate issue unfit vehicle notices, which may include a suspension of the vehicle under s.68 of the Local Government (Miscellaneous Provisions) Act 1976:-

- Fleet and Technical Manager
- Assistant Fleet Manager
- Fleet Workshop Manager
- HGV Vehicle Fitters

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## **Scheme of Delegation to Officers**

### **Assistant Director (Planning and Regulatory)**

#### **(1) Planning and Development Matters**

To discharge the Council's functions, powers and duties under the following Acts, Directives and Regulations, together with any relevant current legislation being in force.

#### **Determination of Applications**

1. Subject to the Delegation Panel Scheme, to determine planning applications and allied matters under the Town and Country Planning Act 1990 relating to the proper planning of the District in accordance with the written and approved policies of the Council as Local Planning Authority.

For the purpose of 1. above, 'planning and allied matters' relate to:

- All outline and full applications
- Submission of details
- Conversions and change of use
- Non material amendment and variations to permission and consents previously granted
- Installation of underground petroleum storage tanks, overhead electricity lines, equipment structures required by statutory undertakers and telecommunications,
- Display of advertisement under the Town and Country Planning (Control of Advertisement) (England) Regulations 2007 (as amended)
- Applications for the renewal of permission and consents
- Listed Building Consent applications , including referral to the Secretary of State of applications submitted by the Council
- Development under Regulation 3 or 4 of the Town & Country General Regulations 1992 (including applications made by the County Council).
- Validate and determine applications for Planning (Hazardous Substances) Regulations 2015, or any subsequent Regulations made under the Planning (Hazardous Substances) Act 1990.
- Certificates of Lawfulness for general works and to Listed Buildings
- Conservation of Habitats and Species Regulations (2010); Conservation of Habitats and Species (Amendment) Regulations 2012 and Regulation 63 of the Conservation of Habitats and Species Regulations (2017) in relation to Habitat Regulations Assessments.

### **Prior Approval Process**

2. To give notice in respect of all prior approval processes under the Town and Country Planning (General Permitted Development) (England) Order 2015 and any subsequent amendments or re-enactments thereof and to grant or refuse prior approval on behalf of the Local Planning Authority in respect of any prior approval process in cases where the developer has been given notice that such prior approval is required.

### **Certificates of Lawful Use**

3. To issue certificates under Section 191 or 192 of the Town and Country Planning Act 1990 (as amended), after consultation with the Service Manager (Shared Legal).

### **Issuing Notices**

4. To issue all notices including reasons for refusal and imposition of conditions in respect of planning, listed building, tree preservation orders, advertisement applications and trees in conservation area notifications, hedgerow notifications and applications for prior approval under the provisions of the Town and Country Planning (General Permitted Development) Orders.

### **Conditions**

5. To determine:
  - (a) the conditions to be imposed on any grant of planning permission or similar consent; and
  - (b) whether a Planning Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 and the Community Infrastructure Levy Regulations 2010 and any subsequent amendments to such legislation is required in respect of any planning application and to authorise the Service Manager (Shared Legal) to secure such Obligation.
6. To formulate conditions and reasons for refusal, the substance of which has been determined by the Development Control Committee.

### **Neighbouring Authorities**

7. To make representations to another Authority concerning planning applications within that Authority's area.

### **County Matters**

8. To comment upon development proposals of the Suffolk County Council and other public bodies unless such an application is a

proposal judged by the Assistant Director (Planning and Regulatory) (after consultation with the Chairman and/or Vice Chairman of the Development Control Committee) to be of such district-wide significance or to be so contentious that it should in the public interest be referred to the Development Control Committee for consideration and determination.

9. To declare any particular planning application to be a County matter.

### **Trees**

10. To make Provisional Tree Preservation Orders, and confirm such orders in the event of no representation being received. Where representations are received, to refer the matter to the next available meeting of Committee for consideration.
11. To determine applications for works relating to trees which are in a Conservation Area or the subject of a Tree Preservation Order, including emergency works and proposals for the lopping, topping, felling or replacement of such trees (including authorising works to such trees on land in the Council's ownership).
12. To deal with applications for the felling of Trees in Conservation Areas under Section 211 of the Town and Country Planning Act 1990 where objections are received and the timetable for reporting the matter to the Development Control Committee prevent them being determined by the Committee within the statutory 6 week period.
13. To determine notices for the removal of hedgerows under the Hedgerows Regulations 1997.
14. As well as the Assistant Director (Planning and Regulatory), the Service Manager (Development Management), all Principal Planning Officers in the Development Management and Planning Policy and Growth Sections, together with the Principal Planning Enforcement Officer, Principal Conservation Officer, Ecology Tree and Landscape Officer, to give and adopt such notices and opinions and to take such other action as may be necessary to ensure compliance with Regulation 63 of the Conservation of Habitats and Species Regulations (2017) in relation to Habitat Regulations Assessments.
15. In addition to the Assistant Director (Planning and Regulatory), the following sub-delegations may be exercised by the Principal Enforcement Officer, the Ecology Tree and Landscape Officer and the Tree Officer, in respect of Part 8 of the Anti-Social Behaviour Act 2003 with reference to High Hedges:-
  - (i) to serve High Hedge enforcement notices where determinations have not been complied with;

- (ii) to enter land in the course of dealing with complaints, appeals and enforcement;
- (iii) to prepare and deliver the Council's case where an appeal against a determination has been lodged; and
- (iv) to determine a complaint and to issue a decision.

## **Appeals**

**The delegations in relation to Appeals are sub-delegated to the Service Manager (Development Management), the Service Manager (Planning Strategy), all Planning Officers, Enforcement Officers, Landscape Officers and Conservation Officers, in addition to the Assistant Director ( Planning and Regulatory).**

- 16. To make representations including the submission of cost claims to the Secretary of State in respect of all planning and enforcement appeals conducted by exchange of written representations and by a hearing, including those under the provisions of the Town and Country Planning (Appeals) (Written Representation Procedure)(England) Regulations 2009, the Town and Country Planning (Hearings Procedure) (England) Rules 2000 and other relevant legislation/regulations (for appeals against the refusal of permission or consent and against an enforcement notice).
- 17. To give evidence including the submission of cost claims at all planning and enforcement inquiries, including those conducted under the provisions of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 and the Town and Country Planning (Determination by Inspectors) (Inquiries Procedure)(England) Rules 2000 (appeals against the refusal of permission or consent or in respect of applications called in by the Secretary of State), the Town and Country Planning(Enforcement) (Inquiries Procedure) Rules 1992 and the Town and Country Planning (Enforcement) Inquiries Procedures (England) Rules 2002 (appeals against enforcement notices).
- 18. To make representations and give evidence as required in relation to appeals for non determination.

## **Enforcement**

- 19. To take direct action or works in default as required in relation to Section 178 (Non Compliance with an Enforcement Notice) and Section 219 (Non Compliance with a Section 215 Notice).

**In addition to the Assistant Director (Planning and Regulatory), the following sub-delegations 20. to 30. may be exercised by the Principal Enforcement Officer, the Service Manager (Development Management), the Service Manager (Planning Strategy) and (in**

**the absence of the Principal Enforcement Officer) any Principal Planning Officer within Planning and Growth.**

20. To issue and serve Breach of Condition Notices under Section 187A of the Town and Country Planning Act 1990 (as amended).
21. To authorise entry to land in accordance with the provisions of Section 196A and Section 324 of the Town and Country Planning Act 1990 (as amended) and Section 36 of the Hazardous Substances Act 1990 (in connection with the determination of any application and the service of notices).
22. To serve Planning Contravention Notices under Section 171C of the Town and Country Planning Act 1990 (as amended).
23. To serve requisition of Information Notices under Section 330, Town and Country Planning Act 1990 and Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
24. To issue Enforcement Notices under Sections 172 and 215 (Untidy Gardens), Listed Building Enforcement Notices under Section 38 Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 and Stop Notices under Section 183 of the Town and Country Planning Act 1990 (as amended) after consultation with the Service Manager (Shared Legal).
25. To serve Temporary Stop Notices under Sections 171E to 171H of the Town and Country Planning Act 1990 (as amended), and in consultation with the Service Manager (Shared Legal).
26. To terminate investigative action in cases where it is appropriate not to pursue enforcement action.
27. To take all appropriate legal steps to secure compliance with extant Enforcement Notices and Stop Notices under Section 215 including prosecution, in consultation with the Service Manager (Shared Legal).
28. To authorise enforcement action under Part 8, Section 74 of the Anti-social Behaviour Act 2003 (High Hedges) (following determination of complaints under the same powers), in consultation with the Service Manager (Shared Legal).
29. To take prosecution action under Part II Sections 3 and 4 and of the Clean Neighbourhoods Act 2005 to pursue action against the exposure of vehicles for sale on the highway and the repair of vehicles on the road.
30. To monitor and enforce Planning Obligations pursuant to Section 106 of the Town and Country Planning Act 1990 and the Community Infrastructure Levy Regulations 2010 and subsequent amendments and instruct Head of Legal to take the necessary

action to prosecute any breaches that are unable to be resolved through negotiation.

### **Conservation Areas/Article 4 Directions/Listed Buildings**

31. To determine whether it is appropriate to, and, if so, to serve Directions and Notices under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015 and to confirm such Directions if no objections are received within the statutory consultation period.
32. To carry out reviews and to amend Directions under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015, in consultation with the Local Ward Member(s) and the relevant Portfolio Holder in consultation with the Local Ward Member(s) and the relevant Portfolio Holder.
33. Provided that the principle of the creation of the new Conservation Area, has been agreed by the Cabinet, to designate new, Conservation Areas, and to serve Notices to that effect under section 69 of The Planning (Listed Buildings and Conservation Areas) Act 1990 and in consultation with the local Ward Member(s) and the relevant Portfolio Holder.
34. Following a review by the authorised decision taker, to vary or cancel to Conservation Area Designations, and to serve Notices to that effect, under Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and in consultation with the local Ward Member(s) and the relevant Portfolio Holder.
35. To issue Repair Notices under Section 48 and Urgent Works Notices under Section 54 of the Town and Country Planning (Listed Building and Conservation Area) Act 1990.

**In addition to the Assistant Director (Planning and Regulatory), the following sub-delegations 36. to 40. may be exercised by the Principal Conservation Officer, the Service Manager (Planning Strategy) and the Service Manager (Development Management).**

36. To authorise entry to land in accordance with the provisions of Section 88 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 and any subsequent amendments to this legislation.
37. To serve requisition of Information Notices under Section 89 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 and any subsequent amendments to this legislation.
38. To issue Listed Building Enforcement Notices under Section 38 Town and Country Planning (Listed Buildings and Conservation



Areas) Act 1990 after consultation with the Service Manager (Shared Legal).

39. To serve Building Preservation Notices under Section 3 of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990 or any statutory modification or re-enactment thereof subject to reporting such action at the next meeting of the Cabinet or Committee as appropriate.
40. Issuing of decisions relating to applications for Listed Building Consent and Certificates of Lawfulness for Listed Buildings.

### **Environmental Assessment**

**In addition to the Assistant Director (Planning and Regulatory), the following sub-delegations 41. to 42. may be exercised by the Service Manager (Planning Strategy) and the Service Manager (Development Management)**

41. To require the submission of an Environmental Assessment under Regulation 7 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 or an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.
42. To give and adopt such notices and opinions and to take such other action as may be necessary to ensure compliance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 or the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

### **Building Regulations**

43. The determination and relaxation of applications under the Building Regulations.
44. Powers and Duties under the Building Act 1984, which relate to Building Regulations.
45. Power to serve notices under Section 36 of the Building Act 1984, as amended.
46. Action under Sections 77 and 78 of the Building Act 1984, to deal with dangerous buildings and structures in emergency situations.
47. Action under Section 80 of the Building Act 1984, to deal with and control demolition work.
48. To authorise temporary road closures under Section 21 of the Town Police Clauses Act 1847.

49. Authority for entry and the service of statutory notices and cautions and to take enforcement action (including prosecutions where permitted) under the Building Act, 1984.
50. As well as the Assistant Director (Planning and Regulatory), the Building Control Manager and Building Control Surveyors, to issue decision notices under the Building Regulations and Building Acts and to serve notices in respect of contraventions of the Regulations and with respect to dangerous structures and demolitions under the Building Act.
51. The Assistant Director (Planning and Regulatory), Building Control Manager and Building Control Surveyors, to instruct a contractor on the Approved List to carry out all necessary action under Section 78 of the Building Act 1984 concerning emergency measures to deal with dangerous buildings and structures.

### **Local Land Charges**

52. To discharge the duties and services required by the Local Land Charges Act 1975 by maintaining a register of legally registrable local land charges for both Council areas and an index that is easily traced. The setting of fees for this service is delegated to the Assistant Director (Resources and Performance) in consultation with the Assistant Director (Planning and Regulatory) and subject to compliance with section 13A of the Act.

### **Pre-application Charging**

53. To set the fees for pre-application charging in consultation with the Assistant Director (Resources and Performance) in accordance with the Fees and Charges Policy.

### **Planning Applications**

54. As well as the Assistant Director (Planning and Regulatory), the Service Manager (Development Management), all Principal Planning Officers in the Development Management and Planning Policy and Growth Sections, the Principal Enforcement Officer and Principal Conservation Officer to deal with minor amendments and variations to planning permissions and consents and to discharge planning conditions.
55. In accordance with the Scheme of Delegation, Senior Planning Officers have authority to sign off and issue the following:
  - (a) Issuing of decisions relating to planning applications for domestic extensions, and the issuing of decisions for related listed building consent and Demolition applications;

- (b) Issuing of decisions relating to applications under the advertisement regulations and the issuing of decisions for related listed building consent applications;
  - (c) Issuing of decisions relating to applications for development Plan compliant minor applications where no 'contrary view' is expressed and all 'other' category developments where the Parish/Town Council has not expressed a contrary view and the issuing of decisions for related listed building consent applications;
  - (d) Issuing of decisions relating to planning applications for extensions/alterations to commercial premises and the issuing of decisions for related listed building consent and applications;
  - (e) Issuing of decisions relating to planning applications for minor operations and the issuing of decisions for related listed building consent and applications;
  - (f) Issuing of decisions relating to applications for the discharge of conditions;
  - (g) Issuing of decisions relating to minor amendment applications relating to any of the application types mentioned above (a) to (e);
  - (h) Issuing of decisions relating to planning applications for variation of conditions relating to any of the application types mentioned above (a) to (e);
56. All Planning and Conservation Officers to have authority to sign off and issue the following:
- (a) Issuing of decisions relating to applications for the discharge of conditions and non-material amendments relating to applications which they have previously dealt with;
  - (b) Sign their own letter relating to pre-application advice which they may give, subject to the letter containing the latest standard disclaimer.

**It should be noted that no Officer will sign off an application where they have been the Case Officer. Every decision should have been signed off in accordance with the Scheme of Delegation.**

### **Brownfield Land Register**

57. To discharge the duties and services required by the Town and Country Planning (Brownfield Land Register) Regulations 2017 to set up and manage registers of brownfield sites within the area.

58. To have the responsibility for the general management of the Brownfield Land Register, but in the event that a Ward Member or Town/Parish Council raises concerns regarding the proposal to include a site in Part 2 of the Brownfield Land Register, this will be referred to the Members' Delegation Panel Scheme to consider, with the potential for determination by the Development Control Committee.

## **(2) Environmental Health and Licensing**

1. The Assistant Director (Planning and Regulatory) has the responsibility for the overall management, administration and control of the executive and non-executive functions of the Environmental Health and Licensing including the following services:
  - a. Pollution control
  - b. Food safety
  - c. Licensing
  - d. Health and Safety Enforcement
  - e. Animal and other licensing
  - f. Infection control
  - g. Other environmental health related matters not managed elsewhere
2. The Assistant Director ( Planning and Regulatory) and in his/her absence the Managers within that function, are authorised to issue and serve all notices, authorisations, grant powers of entry, appointments, instruments and other documents in relation to all animal, health, safety, food, licensing and environmental legislation for which the Council and service is the responsible administrative or enforcing Authority.
3. To issue, grant and sign licences, registrations, exemptions, grant authorisations, permits and consents and provisional licences and statements and where appropriate, attach conditions, and vary, alter, amend, renew and authorise the transfer (as appropriate) of such licences, registrations, exemptions and approve Notices and consents in any of the legislation or enactments thereof in Part 4 below.
4. The Assistant Director (Planning and Regulatory) is authorised to appoint and authorise officers with relevant qualifications, competence and experience to act either generally or specifically, including provision of powers of entry under the following legislation or any statutory modification or re-enactment thereof (including any Order, Regulation or Amendment made by it or under it):
  1. Animal Welfare Act 2006
  2. Anti-Social Behaviour, Crime and Policing Act 2014

3. Breeding of Dogs Act 1973 as amended by Breeding and Sale of Dogs Welfare Act 1999
4. Building Act 1984
5. Clean Air Act 1993
6. Clean Neighbourhoods and Environment Act 2005
7. Control of Pollution Act 1974
8. Contaminants in Food (England) Regulations 2013
9. Dangerous Wild Animals Act 1976
10. Environment Act 1995
11. Environmental Protection Act 1990
12. European Communities Act 1972 (and Regulations made under it)
13. Factories Act 1961
14. Food and Environment Protection Act 1985
15. Food Safety and Hygiene (England) Regulations 2013
16. Food Safety Act 1990 and subordinate regulations
17. Gambling Act 2005
18. Health Act 2006 Part 1; and
19. Health Protection (Local Authority Powers) Regulations 2010
20. Health Protection (Part 2A Orders) Regulations 2010
21. Health & Safety at Work etc. Act 1974 and subordinate regulations
22. Highways Act 1980
23. House to House Collections Act 1939
24. Licensing Act 2003
25. Local Government Act 1972
26. Local Government Act 2000
27. Local Government Miscellaneous Provision Act 1976
28. Local Government Miscellaneous Provision Act 1982
29. National Assistance Act 1948
30. Noise Act 1996
31. Noise and Statutory Nuisance Act 1993
32. Official Feed and Food Controls (England) Regulations 2007 and 2009
33. Offices, Shops and Railway Premises Act 1963
34. Pollution Prevention and Control Act 1999
35. Prevention of Damage by Pests Act 1949
36. Private Water Supplies Regulations 2009
37. Products of Animal Origin (Third Country Imports) Regulations 2006 (as amended)
38. Products of Animal Origin (Import and Export) Regulations 1996 (as amended)
39. Public Health Act 1875
40. Public Health Act 1936
41. Public Health Act 1961
42. Public Health (Control of Diseases Act) 1984
43. Radioactive Substances Act 1993 (including the Public Register)
44. Refuse Disposal Amenity Act 1978
45. Pesticides Act 1998
46. Police, Factories & c. (Miscellaneous Provisions) Act 1916;
47. Scrap Metal Dealers Act 2013

48. Sunday Trading Act 1994 as amended
49. Town Police Clauses Act 1847 and 89
50. Transmissible Encephalopathies (No 2) Regulations 2006
51. Vehicles (Crime) Act 2001
52. Water Act 1989
53. Water Resources Act 1991
54. Town and Country Planning Act 1990
55. Water Industry Act 1991
56. Zoo Licensing Act 1981 (as amended)

All reference to any Statute, Enactment, Order, Regulation or other similar instrument shall be construed as a reference to them as amended (or re-enacted) by any subsequent Enactment, Modification, Order, Regulation or Instrument.

5. To sub-delegate any matters for which the Assistant Director (Planning and Regulatory) is authorised to act, in any capacity, in respect of Environmental Health and Licensing to the Service Manager (Environmental Health).
6. Take all necessary legal action required to enforce the provisions of relevant legislation relating to all environmental health and licensing functions.
7. To facilitate reciprocal working arrangements between licensing enforcement officers from Borough/District Councils within Suffolk.
8. Pursuant to Sections 115 A-K of the Highways Act 1980 and in accordance with the Council's policy for trading and displays on the highways to determine applications and take other action under these provisions.
9. To approve any fees and charges for the service.
10. To operate the Council's policy for street vending (including street cafés) in Bury St Edmunds and Haverhill, including responsibility for the grant of.
11. To consider and make relevant representations (and or objection notices) in respect of any applications and notices made under the Licensing Act 2003 and any subsequent amendments and regulations in accordance with any provisions for the Licensing Authority to act as a Responsible Authority.
12. The Assistant Director (Planning and Regulatory) and the Service Manager (Environmental Health) is authorised to act on behalf of the Council in relation to any matters including enforcement arising in relation to licences granted under the Licensing Act 2003.
13. The Assistant Director (Planning and Regulatory) and the Service Manager (Environmental Health) shall also have the following powers:

- a) Power to determine applications under the Licensing Act 2003 as defined and detailed in the Council's Statement of Licensing Policy in accordance with guidance issued under Section 182 of the 2003 Act by the Secretary of State.
  - b) Power to determine applications under the Gambling Act 2005 as defined and detailed in the Council's Statement of Principles in accordance with the guidance issued under Section 25 of the 2005 Act by the Gambling Commission.
  - c) Power to deal with any appeal arising out of the licensing process and to compromise any appeal, subject to reporting the outcome of the appeal to the Licensing and Regulatory Committee.
  - d) Power to determine if representations made from an interested party in respect to an application for a premises licence are frivolous or vexatious or in respect to an application to review a licence are frivolous, vexatious or repetitious.
  - e) Power to appoint such Officers to deal with applications and Hearings under the Licensing Act 2003 as are necessary for the proper operation of the Council's powers under the 2003 Act.
14. Appoint suitably qualified Officers as Inspectors under the Health and Safety at Work etc. Act 1974 and any regulations made under the Act and to specify which of the powers under the Act to be exercisable by officer appointed.
  15. All reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to them as amended (or re-enacted) by any subsequent enactment, modification, order, regulation or instrument.
  16. To accept tenders and quotations and to authorise works, initiate action or to act pursuant to the functions of the Council pursuant to legislation enforced by the Assistant Director (Planning and Regulatory) in relation to Environment Health and Licensing.
  17. To approve or reject plans and specifications under the provisions of the Clean Air Acts 1993 and to grant exemptions.
  18. To make representations to the relevant Secretary of State, if he is satisfied that water being supplied for public consumption does not meet the appropriate criteria and the water undertaker has failed to carry out works to remedy the situation; the facts of the representations to be reported to the next meeting of the Licensing and Regulatory Committee.

19. To serve notice in respect of private drinking water supplies and to make arrangement for work in default to be carried out in accordance with the Water Act 1989 and its subordinate legislation where informal approaches have failed to secure the necessary improvements.
20. Subject to the approval of the Licensing and Regulatory Committee, and after such consultation as considered necessary, to make objections and representations in respect of proposals relating to the discharge of effluent; the facts of the objection or representation to be reported to the next meeting of the Committee.
21. To maintain a public register of information as required by the Environmental Protection Act 1990 and the Pollution Prevention and Control Act 1999.
22. Administer, issue and serve Simple Cautions.
23. To authorise any person to accompany an Inspector on a visit to premises pursuant to S.20 (2)(c)(i) of the Health and Safety at Work Act 1974.
24. To authorise in writing any person who appears suitable to act for the purposes set out under Section 108 of the Environment Act 1995
25. To authorise suitably qualified, competent and experience Health staff from another local authority to act on behalf of this Council in the event of a major emergency.
26. To revoke authorisations for Industrial Processes subject to Local Air Pollution Prevention Control in cases where it is appropriate.
27. To exercise the Council's powers under Sections 77 and 78 of the Criminal Justice and Public Order Act 1994 as to the issue and the serving of a Notice of a Direction under Section 77 of that Act.
28. In consultation with the relevant Portfolio Holder, to adopt any Service Plans required by the Food Standards Agency and Health and Safety Commission, provided they are consistent with the Service Plans and budgets approved by the Council.
29. To make changes to the licence conditions for Hackney Carriages and Private Hire Vehicles in the light of changes to legislation and national guidance.
30. In respect of Hackney Carriage/Private Hire driver licences and operator licences applied for or granted under the provisions of the Town Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976, to suspend such drivers and operators in appropriate circumstances, either subject to the usual



provisions for appeal, or, to suspend licensed drivers with immediate effect on the grounds of Public Safety under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 (as amended by the Road Safety Act 2006).

31. To make amendments to the standard conditions for all licences relating to consents for street trading and for licences for house-to-house and street collections to ensure compliance with relevant local and national guidance, in consultation with the relevant Portfolio Holder(s).
32. Where appropriate, suspend consents for street trading in accordance with the terms of the consent.
33. In consultation with the Leader, to issue an Order in accordance with Sections 14A(1) and 14A(2) of the Public Order Act 1986 (as amended by Section 70 of the Criminal Justice and Public Order Act 1994).
34. Be authorised to, where appropriate, suspend, revoke or refuse to renew a Hackney Carriage or Private Hire Vehicle Licence in accordance with s.68 and s.60(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976.
35. Power to agree payments for compensation arising under section 20 of the Public Health (Control of Disease) Act 1984.
36. To authorise works being carried out in default in cases where a breach of legislation can be remedied by the Council carrying out works in default.
37. Power to serve notices under Section 19, commence legal proceedings under Section 20 and provide certificates under Section 22 of the Criminal Justice and Police Act 2001 in relation to closure orders where there are suspected unauthorised sales of alcohol or breach of licence conditions or unauthorised licensable activities taking place at premises.
38. To administer relevant anti-social behaviour provisions, and taken all necessary legal action, including to give directions, serve notices, enforce, carry out works in default, issue formal cautions and to lay information and complaints to Court in relation to offences in appropriate cases under the following Acts and any Act or Acts extending or amending the same and under any order of regulations made under the said Act or Acts:
  - Anti-Social Behaviour, Crime and Policing Act 2014
  - Crime & Disorder Act 1998
  - Criminal Justice & Police Act 2001
  - Criminal Justice & Public Order Act 1994
  - Housing Act 1996
  - Local Government Act 1972

- Local Government Act 2000
  - Police & Justice Act 2006
  - Policing and Crime Act 2009
  - Protection from Harassment Act 1997
  - Serious Organised Crime & Police Act 2005
39. To authorise the appropriate Officers to undertake any actions set out in Section 143 of the Highways Act 1980.
  40. To authorise any Officer appointed as an Inspector under the Health and Safety at Work etc. Act 1974 to institute proceedings for offences (Section 38) and to prosecute before magistrates court proceedings for an offence under any of the relevant statutory provisions (Section 39).
  41. Issue and serve Requisitions for Information as to the ownership of property pursuant to Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
  42. Deal with food complaints.
  43. Apply to the Court for an Emergency Prohibition Order under the Food Safety legislation and take all necessary preliminary action for that purpose, including the laying of information or information in relation to an offence or offences.
  44. Exercise the powers contained in Food Safety legislation to institute proceedings under any provisions of that Act/Regulations or any Regulations or Orders made under them.
  45. Agree local transfers and assignments under Regulations 5 and 6 of the Health and Safety (Enforcing Authority) Regulations 1989.
  46. Sign instruments of appointment under Section 19 of the Health & Safety Work etc. Act 1974.
  47. Issue and serve notices, authorisations, instruments and other documents under the Breeding of Dogs Acts 1973 and 1991 as amended by the Breeding and Sale of Dogs (Welfare) Act 1999 and also under the 1999 Act itself where there is a duty placed on the Council to do so.
  48. Serve notices under Section 20 of the Local Government (Miscellaneous Provisions) Act 1976 in consultation with the appropriate Portfolio Holder whenever the Assistant Director (Planning and Regulatory)/one of his/her Service Managers deems it appropriate subject.
  49. To approve (but not refuse) charitable house-to-house and street collections.

50. To refuse applications for consents, permits and licences and registrations where the application or the grant of the application would be or would result in a contravention of the law.
51. To refuse applications for extensions to the permitted hours for street trading as set out in the Council's Standard Conditions.
52. To revoke a Street Trading Consent where payment of two consecutive monthly instalments of application fee remain outstanding.
53. To appoint Consultant in Communicable Disease Control (CCDC) as Proper Officer.
54. To authorise Officers, the CCDC and other nurses qualified to 'Agendas For Change band 7 and above' within the Norfolk, Suffolk and Cambridgeshire Health Protection Unit (NSCHPU) or any successor agency for Regulation 8 (1) and 8 (2) or the Health Protection (Local Authority Powers) Regulations 2010.
55. To authorise Officers granted powers under any Health Protection Legislation to apply for a Part 2A order in accordance with the Health Protection (Part 2A Orders) Regulations 2010
56. Suitably qualified staff be appointed Proper Officers for the purpose only of exercising rights of entry under Sections 61 and 62 of the Public Health (Control of Diseases) Act 1984.
57. To authorise all Officers within the service, where appropriate to apply for search warrants and to execute them.
58. To authorise any relevant actions under Section 222 of the Local Government Act 1972.

### **(3) Housing**

**The Assistant Director (Planning and Regulatory) makes the following sub-delegations to Officers:**

**(I) Sub-delegations to be exercised by officers in addition to the Assistant Director (Planning and Regulatory):**

**1. Service Manager (Housing Standards)**

1. Investigate cases of harassment or unlawful eviction of any occupier of private residential accommodation under the Protection from Eviction Act 1977.
2. Determine and approve mandatory Disabled Facilities Grants (DFG) and discretionary DFG in line with Council Policy. Approve professional and technical support to assist residents make their applications.

3. Approve discretionary home assistance grants in line with Council Policy.
4. All delegations under Public Health and Housing.
5. To take enforcement action under the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014.
6. To take enforcement action under the Housing and Planning Act 2016, in accordance with the West Suffolk Councils' Housing Standards Civil Sanctions Policy.

#### **(4) Public Health and Housing**

1. To issue licences, registrations, exemptions, grant authorisations, permits and consents and provisional licences and statements and where appropriate, attach conditions, and vary, alter, amend, renew and authorise the transfer (as appropriate) of such licences, registrations, exemptions and approve Notices and consents pursuant to the following statutes:-
  - Public Health Act 1936;
  - Caravan Sites and Control of Development Act 1960;
  - Dangerous Wild Animals Act 1976;
  - Local Government (Miscellaneous Provisions) Act 1982;
  - Environmental Protection Act 1990;
  - Noise and Statutory Nuisance Act 1993;
  - Housing Grants, Construction and Regeneration Act 1996;
  - Housing Act 1996;
  - Housing Act 2004;

All reference to any Statute, Enactment, Order, Regulation or other similar instrument shall be construed as a reference to them as amended (or re-enacted) by any subsequent enactment, modification, order, regulation or instrument.

2. To authorise all suitably qualified staff to act on behalf of the Council and take appropriate action in respect of the following statutes and regulations made under those statutes, including inspection of premises, serving of Notices, Counter Notices and Orders:-
  - Public Health Act 1936;
  - National Assistance Act 1948;
  - National Assistance (Amendment) Act 1951;
  - Caravan Sites and Control of Development Act 1960;
  - Public Health Act 1961;
  - Control of Pollution Act 1974;
  - Dangerous Wild Animals Act 1976;
  - Local Government (Miscellaneous Provisions) Act 1976;

- Local Government (Miscellaneous Provisions) Act 1982;
- Building Act 1984;
- Public Health (Control of Disease) Act 1984;
- Housing Act 1985;
- Housing Grants, Development and Regeneration Act 1989;
- Local Government and Housing Act 1989;
- Environmental Protection Act 1990;
- Dangerous Dogs Act 1991
- Water Industry Act 1991;
- Clean Air Act 1993;
- Noise and Statutory Nuisance Act 1993;
- Dogs (Fouling of Land) Act 1996;
- Housing Act 1996;
- Noise Act 1996;
- Pollution Prevention and Control Act 1999;
- Homelessness Act 2002;
- Regulatory Reform (Housing Assistance) (England and Wales) Order 2002;
- Anti-social Behaviour Act 2003;
- Housing Act 2004;
- Clean Neighbourhoods and Environmental Act 2005;
- Animal Welfare Act 2006;
- Anti-social Behaviour, Crime and Policing Act 2014
- Smoke and Carbon Monoxide Alarm (England) Regulations 2015

All reference to any Statute, Enactment, Order, Regulation or other similar instrument shall be construed as a reference to them as amended (or re-enacted) by any subsequent enactment, modification, order, regulation or instrument.

3. To accept tenders and quotations and to authorise works, initiate action or to act pursuant to the functions of the Council pursuant to the following Statutes:-
  - Public Health Act 1936;
  - Prevention of Damage by Pests Act 1949;
  - Public Health Act 1961;
  - Dangerous Wild Animals Act 1976;
  - Local Government (Miscellaneous Provisions) Acts 1976 and 1982;
  - Building Act 1984;
  - Housing Grants, Construction and Regeneration Act 1996;
  - Housing Act 1996;
  - Protection from Eviction Act 1977;
  - Dangerous Dogs Act 1991;
  - Homelessness Act 2002;
  - Housing Act 2004;
  - Clean Neighbourhoods and Environmental Act 2005;
  - Anti-social Behaviour, Crime & Policing Act 2014
  
4. To authorise the burial or cremation of bodies, to publish information and in conjunction with the Head of Resources and

Performance to authorise compensation payments under the provisions of the Public Health (Control of Disease) Act 1984.

5. To serve notice in respect of private drinking water supplies and to make arrangement for work in default to be carried out in accordance with the Water Act 1989 and its subordinate legislation where informal approaches have failed to secure the necessary improvements.
6. To recover grants in the event of breach of condition and reduction in liabilities for repayment of grants in cases of financial hardship after consultation with the Assistant Director (Resources and Performance).
7. To make variations to the adopted amenity standards for houses in multiple occupation.
8. To accept quotations and authorise the execution of works in cases of work in default (WID) where there has been non-compliance with a statutory notice and approve and serve notices to recover reasonable costs for WID.
9. To maintain the Public Register of Houses in Multiple Occupation.
10. To carry out the Council's functions and duties with respect to overcrowding.
11. To approve statutory compensation to owners and occupiers of premises affected by unfit dwellings proposals and to authorise ex-gratia payments towards proved reasonable removal expenses not exceeding £750 per household.
12. To approve the making of Closing and Demolition Orders.
13. To determine Closing Orders or revoke Demolition Orders upon being satisfied that the works necessary have been carried out.
14. In relation to dwellings that are unfit and in need of repair to accept quotations and authorise the execution of works in cases of default.
15. To determine applications to use dwellings which are the subject of Closing Orders for uses other than human habitation.
16. To discharge the functions of the local authority under the Environmental Protection Act 1990 in relation to the control of dogs.
17. To issue cautions in appropriate circumstances after consultation with the Service Manager (Shared Legal).
18. To lead and co-ordinate in respect of all issues connected with unauthorised Gypsy and Traveller encampments in accordance with the Suffolk Protocol for Unauthorised Encampments, in consultation

with the Service Manager (Shared Legal), and other Assistant Directors as appropriate.

19. To exercise the Council's powers under Sections 77 and 78 of the Criminal Justice and Public Order Act 1994 as to the issue and the serving of a Notice of a Direction under Section 77 of that Act.
20. To appoint the Proper Officer for the purposes of Section 47 of the National Assistance Act 1948.
21. To exercise all powers and commence action in relation to Anti Social behaviour.

### **Housing Health and Safety Rating System: Enforcement Policy**

1. In consultation with the Head of Resources and Performance, to set the charges for the enforcement actions detailed below, except in the case of owner-occupiers in receipt of means tested benefits, based on the hourly rates for the work involved.
2. Reasonable charges for the cost of enforcement will be made in accordance with Section 49 of the Housing Act 2004 in respect of the following actions:-
  - (i) serving an improvement notice under Section 11 or 12 of the Act – (determining whether to serve the notice, identifying any action to be specified in the notice, and serving the notice);
  - (ii) making a prohibition order under Section 20 or 21 of the Act – (determining whether to make the order, and serving copies of the order on persons as owners of premises);
  - (iii) serving a hazard awareness notice under Section 28 or 29 – (determining whether to serve to notice, identifying any action to be specified in the notice, and serving the notice);
  - (iv) taking emergency remedial action under Section 40 – (determining whether to take such action, and serving the notice required by Section (7) of that Section);
  - (v) making an emergency prohibition order under Section 43 – (determining whether to make the order, and serving copies of the order on persons as owners of premises); and
  - (vi) making a demolition order under Section 265 of the Housing Act 1985 – (determining whether to make the order, and serving copies of the order on persons as owners of premises).

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## **Scheme of Delegation to Officers**

### **Assistant Director (Resources and Performance)**

1. To 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 Acts 1985 and 1988.
2. To undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance '.
3. To be responsible for the implementation and management of the Council's Risk Framework.
4. To ensure the collection of all income due to the Council and take all necessary action for the recovery of debts owed to the Council and to deal with irrecoverable amounts, as prescribed in the Council's Financial Regulations
5. To institute proceedings in a Magistrates Court for the purpose of recovering sums due under the General Rate Act 1967 and the Local Government Finance Acts of 1988 and 1992.
6. To be responsible for insuring all the Council's properties and other appropriate liabilities and settling all insured claims through the Council's insurers.
7. To ensure payment to all creditors, including loan interest recipients and employees of the Council.
8. To manage the Revenues and Benefits function, including being authorised to appoint appropriately qualified officers employed within the Anglia Revenues Partnership to:-
  - (a) make complaints to and appear before a Magistrates' Court in connection with summonses for non-payment of Council Tax and National Non-Domestic Rates and to take all steps and appear before a Magistrates' Court in connection with applications for the issue of warrants committing Community Charge, Council Tax and National Non-Domestic Rates debtors to prison;
  - (b) appear before any Valuation Tribunals held under the Local Government Finance Acts 1988 and 1992;
  - (c) appear before a County Court for the issue of a charging order under Sections 50 and 51 of the Council Tax (Administration and Enforcement) Regulations 1992;
  - (d) write off as irrecoverable any bad debt up to £500;

- (e) issue a formal caution and administrative penalty relating to Housing Benefit or Council Tax Benefit fraud;
- (f) exercise Section 109B and 109C powers under the Social Security Act 1992 (power to obtain information in relation to benefit fraud) and, under Section 110A of the same Act, the Chief Finance Officer to authorise further officers to exercise such powers;
- (g) obtain information, following consultation with the Chief Finance Officer and Deputy Finance Officer, relating to benefit fraud under the Social Security Fraud Act 2001;
- (h) administer the Localised Council Tax Support Scheme;
- (i) to make or object to proposals for alteration or addition to the Valuation List;
- (j) to obtain Certificates and to apply to the Valuation Officer for apportionment of the rateable value of partly occupied hereditaments under Section 25 of the General Rate Act 1967 and the Local Government and Housing Act 1989;
- (k) to deal with applications for the statutory rate relief for charities;
- (l) to make refunds of rates under Section 9 of the General Rate Act 1967 where the certificate of the Valuation Officer has been obtained;
- (m) to manage the Council's rating function including the acquisition of information required and the provision of information to ratepayers;
- (n) to seek advice on suspected Benefit and Council Tax fraud cases;
- (o) to deal with applications made under the Local Government Finance Act 1992 for Council Tax Reductions for Disabilities;
- (p) to fix the instalment dates for the payment of the Council Tax and for the National Non-Domestic Rates;
- (q) to determine applications for rating relief under Sections 43, 45 and 49 of the Local Government Finance Act 1988;
- (r) to operate and amend any appropriate list of qualifying properties under the Village Shops and Post Offices Rate Relief Scheme;
- (s) to determine first stage representations from claimants in respect of housing benefits;
- (t) to determine applications for Housing Benefits; and

- (u) to determine rent for Housing Benefit purposes, after consultation with the Assistant Director (Human Resources, Legal and Democratic Services) as appropriate.
9. To write-off as irrecoverable any bad debt up to £2,500 and write-off obsolete plant and equipment.
  10. To serve notices pursuant to the General Rate Act 1967 and Local Government Finance Acts of 1988 and 1992.
  11. To manage the Council's investments.
  12. To accept on behalf of the Council temporary and permanent loans.
  13. To determine the charges payable for letting accommodation in the Council's offices.
  14. To be responsible for preparing all financial accounts, statements, estimates and budgets for the Council.
  15. To manage the Council Tax functions including the provision of statutory information, and the billing, collection and recovery of sums due.
  16. To approve applications for Discretionary Rate Relief under the provisions of the Local Government Finance Act 1988 and in accordance with criteria laid down by the former Development and Finance Committee and subject to appeal to the Licensing and Regulatory Committee.
  17. To determine applications for rating relief (Hardship Relief) made under S49 of the Local Government Finance Act 1988 subject to appeal to the Licensing and Regulatory Committee and to an annual report to the Cabinet of decisions made.
  18. To pay allowances to Members in accordance with Council policy.
  19. To approve miscellaneous ex-gratia payments not exceeding £500 in any one case.
  20. To prepare and monitor the Capital Programme together with the available Capital Resources.
  21. To determine fees, after consultation with the Assistant Director (Planning and Regulatory) or Assistant Director (Human Resources, Legal and Democratic Services) as appropriate, pursuant to the following statutes:-
    - Pet Animals Act 1951;
    - Animal Boarding Establishments Act 1963;
    - Riding Establishments Act 1964;
    - Breeding of Dogs Act 1973;
    - Zoo Licensing Act 1981;
    - Dangerous Wild Animals Act 1976;
    - Local Government (Miscellaneous Provisions) Act 1982;

Prevention of Damage by Pests Act 1949;  
Environment Act 1995;  
Dogs (Fouling of Land) Act 1996;  
Housing Grants, Construction and Regeneration Act 1996;  
Housing Act 1996;  
Licensing Act 2003;  
Housing Act 2004;  
Gambling Act 2005;  
Animal Welfare Act 2006

22. To determine applications for Housing Act advances for the acquisition, repair, conversion and improvement of dwellings.
23. To approve variations in the rate of interest payable on Housing Act advances.
24. To apply for Grant of Letters of Administration and act as the Council's nominee (with the Assistant Director (Human Resources, Legal and Democratic Services)) where the Council are creditors in the estate of a deceased person.
25. To determine, in consultation with the Assistant Director (Planning and Regulatory), all fees payable in relation to hackney carriages, their drivers, private hire vehicles and their drivers and operators.
26. To administer the Council's car loans and car leasing schemes.
27. To approve the payment of insurance settlements for a personal accident claim in consultation with the relevant Assistant Director and the Assistant Director (Human Resources, Legal and Democratic Services).
28. In consultation with the Assistant Director (Human Resources, Legal and Democratic Services), to waive the actuarial reduction on compassionate grounds in circumstances deemed appropriate, in accordance with Regulation 31 of the Local Government Pension Scheme Regulations 1997.
29. To pay any unspent payroll related budgets, on an opportunity basis, to the reduction of any deficit on the Pension Fund.
30. To make arrangements for the most advantageous timing, and phasing, of the payment of available Provisions for Credit Liabilities and Usable Capital Receipts into the Suffolk County Pension Fund, up to the approved limit, in consultation with the relevant Portfolio Holder.
31. To execute and administer treasury management decisions, in accordance with the Council's Treasury Management Policy Statement and Treasury Management Practices and, if he/she is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.
32. To place any grant received through the Local Public Service Agreement initiative in a Community Development Reserve established for this

purpose and to amend the Capital Programme to include the capital element of the grant.

33. To transfer any unbudgeted specific grants received into the appropriate reserve. The level and use of this reserve account to be subject to further consideration by the Cabinet and, if required, full Council.
34. In consultation with the Portfolio Holder for Resources and Performance, and taking into account the required level of General Fund balances, to transfer excess interest earned over budget into an Interest Equalisation Reserve established for this purpose and, in order to minimise the impact of any adverse interest rate adjustments in the future, to transfer funds back from this Reserve into the interest budget, as required.
35. Exercise the proper administration of the Council's financial affairs, including, management of the Council's banking arrangements, debt, raising and repayment of loans, investments, pensions matters, leasing arrangements and the Council's insurance arrangements.
36. Undertake all investment transactions within the investment policy determined by the Council including the management of the External Investment Fund in liaison with any Fund Managers appointed by the Council.
37. Raise loans within the limits approved by Central Government and to use overdraft facilities to the limits agreed with the Council's bankers.
38. Manage the Council's loan debt and to raise and repay loans, together with other appropriate instruments, to give effect to the borrowing limits determined under Section 45 of the Local Government and Housing Act 1989 and in accordance with any other relevant controls imposed by Central Government, the Voluntary Code of Practice on Borrowing and the Council's policy decision to reschedule long term.
39. To exercise discretion in consultation with the relevant portfolio holder to use the Council's reserves as necessary.
40. To exercise the function of being the Council's Money Laundering Officer under the appropriate legislation.
41. Raise loans within the limits approved by Council and to use overdraft facilities to the limits agreed with the Council's bankers.
42. Negotiate terms for the Council's banking arrangements and report the outcome to the Portfolio Holder for Resources and Performance.

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## St Edmundsbury Borough Council

### Section 5 - Member Job Descriptions

#### 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 Borough.

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

- (a) Appoint Members of the Cabinet and determine portfolios;
- (b) Chair the meetings of the Cabinet;
- (c) Agree the schedule and venue for Cabinet meetings and make arrangements for special meetings;
- (d) Enable preparation of the Decisions Plan;
- (e) Have an overview of, and advise on, the policy making of the Borough;
- (f) Act as lead Member on overall strategy;
- (g) Monitor the overall performance of the Council in delivering the agreed policies of the Council;
- (h) Co-ordinate and manage Cabinet Members;
- (i) Represent Council policy to the community and partners;
- (j) Work closely with the Joint Chief Executive on strategic matters to ensure the co-ordination, consistency and delivery of Council services;
- (k) Represent the Council on local, regional and national bodies;
- (l) Consult with the Joint Chief Executive on strategic or policy matters where an urgent decision or action must be taken;
- (m) Promote and develop partnership working with other agencies, ensuring that the Council's priorities are met;
- (n) Where necessary consult with Group Leaders of other political groups to expedite the efficient and effective delivery of council business;
- (o) Carry out the duties identified in the job description for Ward Councillors; and
- (p) Liaise with Chairmen and Vice-Chairmen of the Scrutiny Committees to ensure that work programmes are properly co-ordinated.

#### 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 Borough.

1.2 In the absence of the Leader, the Deputy Leader is authorised to act on his/her behalf in accordance with the Council's Constitution, in particular:-

- (a) Chairing Cabinet meetings;
- (b) Enabling the preparation of the Decisions Plan;
- (c) Consulting with the Joint 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 Mayor/Chairman and the Chairmen of the Overview and Scrutiny Committee and Performance and Audit Scrutiny Committee to expedite the efficient and effective delivery of Council business.

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

- 2.1 In the absence of the Leader, to chair Cabinet meetings, conduct the Cabinet's business and present reports to Council.
- 2.2 In the absence of the Leader, to perform any other duties of the Leader, as set out in the Constitution and the Job Description for the Leader.
- 2.3 On behalf of the Leader, to represent the Council on local, regional and national bodies.
- 2.4 On behalf of the Leader, to represent Council policy to the community, partners and the media.
- 2.5 With the Leader, to attend quarterly meetings with the Chairmen and Vice-Chairmen of the Overview and Scrutiny Committee and Performance and Audit Scrutiny Committee and to ensure the work of these Committees is properly co-ordinated.
- 2.6 To carry out the duties identified in the job descriptions for Cabinet Members, their own Cabinet portfolio and Ward Councillors.

## **General Roles and Responsibilities of all Portfolio Holders**

### **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 Borough 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; and
- 2.9 Members of the Cabinet also carry out the duties identified in the job description for Ward Councillors.

### **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 full meetings of the Cabinet.

#### **4. Specific roles of Portfolio Holders**

Will include:-

- (a) Advising the Council, Cabinet or 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 Scrutiny 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 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.

#### **Ward Councillor**

##### **1. Overview**

- 1.1 As a Councillor, you will be expected to balance the needs and interests of your local area, your residents and voters, community groups, local businesses, your political party (if you belong to one) and the Council.
- 1.2 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.

## **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 problems.
- 2.8 Know and work with representatives of local organisations, interest groups and businesses.
- 2.9 Encourage people in your Ward to participate in the democratic decision-making process by engaging with consultations etc.

## **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.
- 3.6 Support the Mayor 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 Maintain and develop your skills by engaging with the Member Development Programme and attending the training offered. Ensure you have sufficient IT skills to enable you to make use of the relevant Council systems.

# **PART 4**

## **RULES OF PROCEDURE**

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## St Edmundsbury Borough Council

### Council Procedure Rules

#### Introduction

1. Ordinary meetings of the Council will usually take place five times a year on a Tuesday, commencing at 7pm.
2. Meetings will usually take place at the Council's main offices but may take place at other venues with the agreement of the Mayor.
3. There are four types of Council Meetings, the Annual meeting, Ordinary meetings, Extraordinary Meetings and 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. 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 considered expedient. Before exercising this authority, the Chief Executive will consult with the Mayor 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 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 Mayor and Deputy Mayor are not present;
- (b) elect the Mayor for the ensuing year;
- (c) receive any announcements from the Mayor, including the appointment of the Mayor's Chaplain;
- (d) receive any announcements from the officer advising the Mayor including apologies for absence;
- (e) elect the Deputy Mayor;
- (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 he/she has chosen to be Members of the Cabinet;
- (h) determine the Council's committee structure and arrangements for outside bodies in accordance with 1.2 below;
- (i) appoint the Chairmen and Vice-Chairmen of the Overview and Scrutiny Committee and the Performance and Audit Scrutiny Committee;
- (j) update the constitution if necessary in line with 1.2 below;
- (k) consider any other business set out in the notice convening the meeting.

### **1.2 Selection of councillors on committees and outside bodies**

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 and on any outside body for which a new appointment or re-appointment is required; and
- (e) appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.



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

2.1 Ordinary meetings of the Council will usually take place at 7pm 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 Mayor.

2.2 Unless changed in accordance with paragraph 2.3 below, the order of business at every ordinary meeting of the Council, after the Mayor's Chaplain has opened the meeting with prayers, will be:-

- (a) to elect a person to preside if the Mayor and Deputy Mayor 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 Mayor's announcements;
- (e) to receive any announcements from the officer advising the Mayor (including apologies for absence);
- (f) declarations of interests;
- (g) the Leader's report and questions thereon in accordance with Rules 8.1 – 8.3 below;
- (h) to receive and answer questions from members of the public in accordance with Rule 6 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);
- (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 and Performance and Audit Scrutiny Committee;
- (m) to receive reports about, and receive questions and answers on, the business of joint arrangements and external organisations;
- (n) questions to chairmen on the business transacted by their committees since the last ordinary meeting of Council;
- (o) to consider any motions under Rule 9 in the order in which they are received;
- (p) to answer any questions received under the terms of Rules 8.4 – 8.8.

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

- (a) before or at a meeting, as the Mayor sees fit; or
- (b) by a resolution of the meeting passed on a motion under Rule 9 or Rule 10.1(c).

### **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 Mayor;
- (c) the Monitoring Officer; and
- (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 Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

#### **Business**

- 3.2 Special or extraordinary meetings will:-

- (a) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (b) receive any declarations of interest;
- (c) (at extraordinary meetings only) receive and answer questions from members of the public in accordance with rule 6 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.

- 3.3 No other business will be dealt with at a special meeting or an extraordinary meeting of the Council.

### **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 and appoint them. Substitute members must be from the same political group as the absent member. If a substitute member cannot be found from the list of prescribed substitutes, a temporary substitute may be appointed by the Service Manager (Democratic Services) and Monitoring Officer on receipt of the prescribed form authorised by the relevant group leader. In the case of the full member not being in a group, the full member seeking a substitute will authorise the form. 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.

## **5. Quorum**

- 5.1 If at the start of a meeting or during a meeting of the Council there are not at least 15 members present, the Mayor will adjourn the meeting.
- 5.2 Consideration of any business not dealt with will be adjourned to a date and time fixed by the Mayor 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 Borough may put questions about the work of the Council 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 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.
- 6.3 Written questions, detailing the full question to be asked, may be submitted by members of the public to the Service Manager (Democratic Services) and Monitoring Officer no later than 10.00 am on the previous working day to the meeting of the Council.

### **Order of questions**

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

### **Time limits**

- 6.5 Each person may ask one question only. A total of five minutes will be allowed for the question to be put and answered. 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. 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 it cannot be answered by another member.

- 6.6 If no questions are received or all the questions are dealt with in less than 30 minutes, the Council will move immediately to the next business.

### **Scope of Questions**

- 6.7 The Service Manager (Democratic Services) and Monitoring Officer, in respect of any question notified before the meeting, or the Mayor, 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 Borough;
  - (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.

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

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

### **Written Answers**

- 6.9 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 12 months after the day of the meeting.
- 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**

### **On the Leader's Statement**

- 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 on the content of both his introductory remarks and the written statement itself. All questions will be answered immediately by the Leader

or by the relevant Cabinet Member if the Leader refers any question to him or her, unless sufficient information to give an answer is not available. In these circumstances the member asking the question will receive a response in writing within five working days of 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 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.

### **Questions on notice at Council**

- 8.4 Subject to paragraph 8.5 below, a member may submit in writing to the Service Manager (Democratic Services) and Monitoring Officer a question on notice for:-

- (a) the Mayor; or
- (b) the Leader or any member of the Cabinet; or
- (c) the Chairman 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 8.4 at each Council meeting and:-

- (a) must submit it in writing to the Service Manager (Democratic Services) and Monitoring Officer no later than 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 Service Manager (Democratic Services and 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 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 Council meeting.

- 8.7 A member asking a question on notice under paragraph 8.4 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 Mayor 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 8.4 above.

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

- 9.1 Except for motions which can be moved without notice under Section 10 of these Rules, written notice of every motion must be delivered to the Service Manager (Democratic Services and Monitoring Officer) no later than noon seven working days before the meeting, not counting the day of the meeting. Motions must be about matters for which the Council has a responsibility or which affect the administrative area of the Council or part of it or the inhabitants of that area.
- 9.2 Each member may put one motion on notice at each Council meeting.
- 9.3 All motions on notice received under 9.1 will be set out in the agenda in the order in which they have been received.
- 9.4 A Member may withdraw a motion on notice at any time.
- 9.5 A motion on notice under 9.1 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 9.1 above.
- 9.6 Any motion on notice under paragraph 9.1 of these Rules, on being moved and seconded, will usually, without discussion, be referred to the appropriate forum for consideration. The Mayor may, if he/she considers 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 not involve the Council in expenditure not included in the Council's approved revenue or capital budget.

## **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 Chairman 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 readmit the public and press in accordance with the Access to Information Rules;
- (q) to direct that a Member named under Rule 17.3 be not further heard or to exclude them from the meeting under Rule 17.4; and
- (r) to give the consent of the Council where its consent is required by this Constitution.

10.2 A motion by the Mayor under paragraph 10.1(p) 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 Mayor 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), 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 he/she last spoke);
- (d) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (e) in exercise of a right of reply in accordance with paragraph 14.9 of those rules;
- (f) on a point of order in accordance with 11.12 below; and
- (g) by way of personal explanation in accordance with 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 Mayor will read out the amended motion before accepting any further amendments, or if there are none, before putting it to the vote.

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

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

- (a) change a motion of which he/she has given notice under rule 9; or
- (b) with the agreement of his/her seconder, change a motion which he/she has moved;
- (c) but only alterations which could be made as an amendment in accordance with paragraph 11.6(a) 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 Mayor, 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; or
  - (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; and
- (e) that a Member be not further heard in accordance with paragraph 17.3.1 of these Rules; and
- (f) by the Mayor, in accordance with paragraph 17.4.1 of these Rules, that a named Member leave the meeting.

11.10.2 Any of the motions under paragraph 11.10.1 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 Mayor thinks the item has been sufficiently discussed, he/she will put the closure motion to the vote. If it is passed, the Mayor 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 Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she 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 Mayor 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 he/she considers it has been broken.
- 11.12.3 The ruling of the Mayor 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 Mayor 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 Mayor 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 ten members. Once the motion is dealt with, no member can propose a similar motion for six months.

12.2 The restrictions contained in 12.1 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 ten 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 Mayor's casting vote**

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

13.2.2 In the case of the Mayor 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 or required under paragraph 13.4.2 of the Rules, the Mayor 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 five other members (who will show their support by standing up):-

- (a) the officer advising the Mayor at the meeting will call the name of each member present at the meeting;
- (b) the member will say whether he or she is for or against the motion or is 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.

### **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 and 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;

- 13.6.2 In the event that the removal of persons jointly having fewest of votes would result in only one candidate remaining, the above provision will not apply and the Chief Executive (or his/her representative) will draw lots 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-Chairmen of a committee) each position will be voted on separately; and
- 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 his/her representative) to decide which person is elected.

## **14. Minutes**

### **14.1 Approval and signing**

- (a) The Mayor 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 Mayor 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 All Members present during the whole or part of a meeting will, before the conclusion of such meeting, sign their names on the Attendance Register provided.

## **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 (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 his/her place and address the Mayor. If two or more members indicate to speak at the same time, the Mayor 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 Mayor 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 Mayor, repeatedly ignores the Mayor's ruling or behaves irregularly, improperly or offensively, or wilfully obstructs the business of the Council, the Mayor 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 is carried, the Mayor will move a motion that either:-

- (a) the meeting be adjourned for however long the Mayor 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 of these rules has been carried, the member named does not leave the meeting, the Mayor 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 Mayor, makes it impossible to carry on the meeting, the Mayor may move a motion which will be voted on without seconding or discussion, to adjourn the meeting for however long the Mayor states.

**17.6 Interpretation of rules - ruling of Mayor not to be challenged**

The decision of the Mayor 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 Mayor will warn the person concerned not to interrupt. If the interruption is repeated, the Mayor will order the removal of that person from the meeting room. The Mayor 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 Mayor will give a warning and if the disturbance continues will order that part to be cleared, but may identify persons who may remain. The Mayor 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.

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

### **19.1 Suspension**

All of these Council Rules of Procedure except Rule 13.4 and 14.1 may be suspended by motion on notice (in accordance with paragraph 9.1 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 Assistant Director (HR, Legal and Democratic Services).

## **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 Assistant Director (HR, Legal and Democratic Services) in consultation with the Mayor, and that officer will refuse or grant permission, or refer the application to the Council for a decision.

## Appendix A

### St Edmundsbury Borough Council Petition Scheme

#### 1. Introduction

- 1.1 This Scheme sets out the details of how St Edmundsbury Borough 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 full 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:

Service Manager (Democratic Services) and Monitoring Officer  
St Edmundsbury Borough 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 full 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:-

Service Manager (Democratic Services) and Monitoring Officer  
Telephone: (01284) 757162 or  
e mail: [democratic.services@westsuffolk.gov.uk](mailto:democratic.services@westsuffolk.gov.uk)

at least 7 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 St Edmundsbury 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;
- (a) (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;
- (c) 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;
- (d) 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 Assistant Director (HR, Legal and Democratic Services) 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 full 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; or
- (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 full 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
- Directors
- Assistant 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 Chairman of the Committee by contacting the Service Manager (Democratic Services) and 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 full 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 Chairman 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; and
  - (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:

Service Manager (Democratic Services) and 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 full Council.

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

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## St Edmundsbury Borough 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 chairman, 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 his or her 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 chairman; 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 chairman may cancel a committee or sub-committee meeting if he or she considers 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 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 chairman 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.

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

- 5.1 All Members present during the whole or part of a meeting will, before the conclusion of such meeting, sign their names on the Attendance Register provided.

#### **6. Election of chairmen and vice-chairmen 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 Chairmen and Vice-Chairmen 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 Chairman and Vice-Chairman.
- 6.2 The members who were Chairman and Vice-chairman 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.



6.3 The Chairman and Vice-Chairman 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 chairman or to choose a member to preside if the chairman and vice-chairman 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) public speaking in accordance with Rule 11 below;
- (g) to receive any petitions in accordance with the Council's Petition Scheme;
- (h) to deal with any business remaining from the last meeting in accordance with Rules 4.2 and 16.11(c);
- (i) to receive and consider any items arising from panels, working groups or sub-committees appointed by the committee;
- (j) other business as set out on the agenda;
- (k) agenda items requested by members in accordance with Rules 13 and 14 below (questions on notice and motions on notice);
- (l) to consider the date and time of the next meeting and any proposals for future agenda items under Rule 12 below.

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

- (a) before or at a meeting, as the chairman sees fit; or
- (b) by a resolution of the meeting passed on a motion under Rule 14 or Rule 15.1(c).

## **8. Chairing a meeting**

8.1 Subject to paragraph 8.3, where the Chairman is not present the Vice-Chairman will, if present, chair the meeting.

8.2 If the Chairman and Vice-Chairman 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 Chairman arrives, or
- (b) a Vice-chairman arrives when the chairman is not present, he or she will take the chair of the meeting

after any item which is being discussed when he or she arrives has been dealt with.

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

- 9.1 Once a substitute has been declared, he or she will have the ordinary status of a member present in his or her own right and will not be the delegate of the original member. He or she will not be able to exercise any special powers or duties exercisable by the person for whom he or she is 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, he or she must declare it as if he or she were an original member.
- 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 him or herself unable to attend the meeting*).
- 9.3 The procedure for the appointment of temporary substitutes will be in accordance with paragraph 4.1 of the Council Procedure Rules 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 he or she is 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 from any of those on the appointed list of substitutes for that committee or sub-committee, provided that they are from the same political group to maintain political balance.
- 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.
- 9.10 Substitute members cannot be appointed to attend meetings for a member who ceases to no longer be a member of the Council (ie by way of resignation, disqualification or death in service).

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

- 10.1 Except as provided in Rules 10.2 – 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 he or she is 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 A member may be invited by the chairman to attend the meeting specifically to comment on an item of business or because the item of business affects his or her ward.
- 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 he or she has indicated in advance to the chairman that he or she wishes to speak on a particular agenda item.
- 10.5 The chairman may at his or her discretion allow non-members of the committee or sub-committee to speak in situations not falling within 10.2 – 10.4 above.

## **11. Public speaking**

- 11.1 Members of the public who live or work in the Borough 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 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.

- 11.3 The Service Manager (Democratic Services) and Monitoring Officer in respect of any question notified before the meeting, or the chairman, 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 Borough;
  - (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 Chairman'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 Functions; A - Development Control; paragraph 4.2 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; paragraph 4.1 and Appendix A).

## **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 chairman and to the Service Manager (Democratic Services) and Monitoring Officer no later than 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 his or her 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 Service Manager (Democratic Services) and Monitoring Officer a question on notice for:-
  - (a) the Chairman; or
  - (b) the Chairman of any sub-committeeon 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 13.1 at each meeting and:-
  - a) must submit it in writing to the Service Manager (Democratic Services) and Monitoring Officer no later than 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 Service Manager (Democratic Services) and Monitoring Officer by 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 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 Chairman 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 13.1 above.

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

- 14.1 Except for motions which can be moved without notice under rule 15, written notice of every motion must be delivered to the Service Manager (Democratic Services) and Monitoring Officer no later than 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 14.1 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 14.1 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 14.1 above.
- 14.6 Any motion on notice under paragraph 14.1 of these rules, on being moved and seconded, will usually, without discussion, be referred to a future meeting for report and consideration. The Chairman may, if he or she considers 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 not involve the council in expenditure not included in the council's approved revenue or capital budget.

#### **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 Chairman 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 readmit the public and press in accordance with the Access to Information Rules;
- (p) to direct that a member named under Rule 20.3 be not further heard or to exclude them from the meeting under Rule 20.4.

15.2 A motion by the Chairman under paragraph 15.1(o) 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 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.

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

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

### **16.3 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.

### **16.4 Content and length of speeches**

16.4.1 Speeches must be directed to the question under discussion or to a personal explanation or point of order.

16.4.2 No speech will be longer than five minutes, except as allowed by the committee or sub-committee following a motion moved and carried under rule 15.1(g), and will be about the matter under discussion.

16.4.3 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.

### 16.5 **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 he/she last spoke);
- (d) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (e) in exercise of a right of reply in accordance with paragraph 16.9 of those Rules;
- (f) on a point of order in accordance with 16.12 below; and
- (g) by way of personal explanation in accordance with 16.13 below.

### 16.6 **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 Chairman will read out the amended motion before accepting any further amendments, or if there are none, before putting it to the vote.

### 16.7 **Alteration of motion**

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



- (a) change a motion of which he/she has given notice under rule 13; or
- (b) with the agreement of his/her seconder, change a motion which he/she has moved;
- (c) but only alterations which could be made as an amendment in accordance with paragraph 16.6(a) of these Rules may be made.

**16.8 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 Chairman, 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.

**16.9 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.

**16.10 Motions which may be moved during a debate**

16.10.1 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; or
  - (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; and
- (e) that a member be not further heard in accordance with rule 20.3.1; and
- (f) by the Chairman, in accordance with rule 20.4.1, that a named member leave the meeting.

16.10.2 Any of the motions under paragraph 16.10.1 of these rules will not take away from the mover of the original motion the right to reply.

### 16.11 **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 to the next business*" or "*that the question be put*" is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the closure motion to the vote. If it is passed, the Chairman 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 Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the closure motion to the vote without giving the mover of the original motion the right of reply.

### 16.12 **Point of order**

- 16.12.1 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 Chairman to speak.
- 16.12.2 A point of order will only be about a claimed breach of a provision of the committee procedure rules or of law; and the member will indicate the paragraph(s) or law and the way in which he/she considers it has been broken.
- 16.12.3 The ruling of the Chairman on the matter will be final and will not be open to discussion.

### 16.13 **Personal explanation**

- 16.13.1 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 Chairman to speak.
- 16.13.2 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.
- 16.13.3 The ruling of the Chairman on the admissibility of a personal explanation will be final.

## 17. **Approval and signing of minutes**

- 17.1.1 The Chairman 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 Chairman will seek a mover and seconder for the motion "*that the minutes of the meeting of the meeting held on ..... be confirmed and signed as a correct record*".

17.1.3 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 Council approval.

### *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 Chairman's casting vote**

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

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 of the Rules, the Chairman 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 standing up):-

- (a) the officer advising the Chairman at the meeting will call the name of each member present at the meeting;
- (b) the member will say whether he or she is 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 and 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;

18.6.2 In the event that the removal of persons jointly having fewest of votes would result in only one candidate remaining, the above provision will not apply and the officer advising the chairman at the meeting will draw lots to determine which of the candidates with 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-chairmen of a committee) each position will be voted on separately; and

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 Chairman 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 his/her place and address the Chairman. If two or more members indicate to speak at the same time, the Chairman will call on one to speak; and
- (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 Chairman 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 Chairman, repeatedly ignores the Chairman's ruling or behaves irregularly, improperly or offensively, or wilfully obstructs the business of the meeting, the Chairman 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 Chairman will move a motion that either:-

- (a) the meeting be adjourned for however long the Chairman 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 of these Rules has been carried, the member named does not leave the meeting, the Chairman 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 Chairman, makes it impossible to carry on the meeting, the Chairman may move a motion which will be voted on without seconding or discussion, to adjourn the meeting for however long the Chairman states.

**20.6 Interpretation of rules - ruling of Chairman not to be challenged**

The decision of the Chairman 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 Chairman will warn the person concerned not to interrupt. If the interruption is repeated, the Chairman will order the removal of that person from the meeting room. The Chairman 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 Chairman will give a warning and if the disturbance continues will order that part to be cleared, but may identify persons who may remain. The Chairman 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 (recorded vote) may be suspended by motion on notice (in accordance with Rule 14.1) 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.

## St Edmundsbury Borough 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) In particular, the Leader and the Leader of Forest Heath District Council, have jointly delegated decisions of the Cabinet as a whole to a Joint Executive (Cabinet) Committee.
- (c) 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.

- (d) 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 chairman.

## **Meetings of the Joint Cabinet**

### **1.5 Cabinet Meetings**

The Cabinet will meet at times to be agreed by the Leaders of Forest Heath District Council and St Edmundsbury Borough Council ("the Leaders") at the main offices of either Council or another location to be agreed by the Leaders and will be held in public except in accordance with the Access to Information Procedure Rules. It shall normally be expected that the meetings will rotate between each Council's main office. Notice of the dates and times of meetings, and their agendas, will be published in accordance with the Access to Information Procedure Rules.

### **1.6 Quorum**

The quorum for a meeting of the Joint Cabinet, or a committee of it, shall be six, to include at least three of the total number of members of each Cabinet (including the Leader).

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

- (a) Executive decisions which have been delegated to the Joint 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 Joint 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 of the Council at whose Offices the meeting is taking place, or in their absence the Leader of the other Council, will preside at any meeting of the Cabinet or its Committees at which they are present. In the absence of both Leaders, the Chairman shall be determined in the order of the Deputy Leader of the Council at which the meeting is taking place, then the other Deputy



Leader, and if all are not present, 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 Borough 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 St Edmundsbury Borough Council or Forest Heath District Council who is not a member of the Joint Cabinet may attend a meeting of the Joint Cabinet. They can speak only:-

- (a) to ask a question 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 Joint Cabinet or a Committee of the Joint 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) "Open forum" in accordance with Rule 2.4 below;
- (d) Public speaking/questions in accordance with Rule 11 of the Committee Procedure Rules;
- (e) The receipt of any petitions (submitted and presented in accordance with the Council's Petition Scheme);
- (f) Matters referred to the Joint Cabinet, whether by either Overview and Scrutiny Committee, either Performance and Audit Scrutiny Committee, or by either Council for reconsideration in accordance with the provisions of contained in either Overview and Scrutiny Procedure Rules or either Budget and Policy Framework Procedure Rules;
- (g) Consideration of reports from either Overview and Scrutiny Committee or either Performance and Audit Scrutiny Committee; and
- (h) 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 both Councils' Constitutions.

## 2.4 **Open Forum**

2.4.1 At each Joint Cabinet meeting up to fifteen minutes shall be allocated for questions 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 Leaders will decide upon the schedule for the meetings of the Joint Cabinet.
- 2.5.2 An item will be placed on the agenda of the next available meeting of the Joint Cabinet where either Overview and Scrutiny Committee, either Performance and Audit Scrutiny Committee or either full Council have resolved that an item be considered by the Joint Cabinet. There will be a standing item on the agenda of each meeting of the Joint Cabinet for matters referred by the Overview and Scrutiny and Performance and Audit Scrutiny Committees.
- 2.5.3 The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Joint 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 Joint Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Joint Cabinet meeting. If there is no meeting of the Joint 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.

## **2.6 Meetings of Cabinet**

- 2.6.1 The Leader may serve notice on the Leader of Forest Heath District Council that they do not intend that the decision or the service, should be delegated to the Joint Committee and may instead be undertaken by the Leader, or by the St Edmundsbury Cabinet acting as a whole.
- 2.6.2 Where the St Edmundsbury Cabinet as a whole is meeting to determine a matter, the following rules of procedure should apply.

## **2.7 St Edmundsbury Cabinet Meetings**

The Cabinet will meet at times to be agreed by the Leader at 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.

## **2.8 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.

## **2.9 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.

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

### **3.1 Who presides?**

The Leader, or in his/her absence any 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.

### **3.2 Who may attend?**

3.1.1 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 Borough may speak or ask one question in accordance with the provisions for public speaking in the Committee Procedure Rules.

3.1.2 Any member of the Council who is not a member of the Cabinet may attend a meeting of the Cabinet. He or she can speak only:-

- (a) to ask a question in accordance with Rule 3.4.1 below;  
or
- (b) if invited to by the person presiding.

### **3.3 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) "Open forum" in accordance with Rule 3.4 below;
- (d) public speaking/questions in accordance with Rule 11 of the Committee Procedure Rules;
- (e) The receipt of any petitions (submitted and presented in accordance with the Council's Petition Scheme);
- (f) 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 Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules;
- (g) Consideration of reports from the Overview and Scrutiny Committee or the Performance and Audit Scrutiny Committee; and
- (h) 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.

### **3.4 Open Forum**

3.4.1 At each Cabinet meeting up to fifteen minutes shall be allocated for questions 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.

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

3.5.1 Normally, the Leader will decide upon the schedule for the meetings of the Cabinet. Matters may only be considered by the Cabinet, or referred to the Cabinet, where they relate to functions or decisions the Leader has confirmed should not be determined by the Joint Cabinet.

3.5.2 Subject to 3.5.1, an item will be placed on the agenda of the next available meeting of the Cabinet where the Overview and Scrutiny Committee, the Performance and Audit Scrutiny Committee or the full Council have resolved that an item be considered by the Cabinet.

3.5.3 Subject to 3.5.1, 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.

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## St Edmundsbury Borough Council

### Overview and 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. 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 by unanimous vote at the Annual Meeting.*
- 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 either prior to the commencement of each financial year or at its first meeting after each Annual Council Meeting.- Should major developments such as a change of Leader occur following the Annual Meeting in May resulting in a change to the Cabinet's priorities, a revised report may be re-submitted at the Committee's first meeting in the civic year;
  - (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 Overview and Scrutiny 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 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.

1.4 As a general principle for its work programme, wherever the subject matter is common and relevant to both Forest Heath and St Edmundsbury, the Committee will make invitations to and consider invitations from the other authority's Overview and Scrutiny Committee to carry out joint scrutiny reviews for West Suffolk.

## **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 he or she has been directly involved.



### **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 6 weeks (i.e. normally, there will be up to 8 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 Chairman and Vice-Chairman 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-Chairman of the Overview and Scrutiny Committee to be a member of the majority group.
- 5.2 The Chairman and Vice-Chairman will hold office until:-
- (a) he/she resigns from the office of Chairman or Vice-Chairman; or
  - (b) he/she is no longer a Councillor; or
  - (c) the next Annual Meeting of the Council save that the Council may remove the Chairman or Vice-Chairman 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 Chairman or Vice-Chairman, 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 Chairman and/or Vice-Chairman 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 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 he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Scrutiny Officer will ensure that it is included on the next available agenda. The request must be by way of the 'suggestion for scrutiny work programme' form, 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 Chairman, or in his/her absence, the Vice-Chairman 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 chairman or vice-chairman 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, he/she 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 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 Chairman of the Committee will inform the Scrutiny Officer. The Scrutiny Officer shall inform the member or officer in writing, giving at least 5 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 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 new 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 with delegated authority from the Cabinet, may be "called in" by members of the Council submitting a request in writing on the call in request form to the Head of HR, Legal and Democratic Services within 5 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 Cabinet decision was not taken in accordance with the principles set out in Article 12 (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 Head of HR, Legal and Democratic Services;
- (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.

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 with delegated authority from the Cabinet, the decision shall be published electronically. Normally, such publication will be on the Friday 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 Chairman of the Committee, he/she may call an extraordinary meeting of the Committee on such date as he/she 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 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 full 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 full 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 Chairman 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 Chairman, the Vice Chairman of the Overview and Scrutiny Committee's consent shall be required. In the absence of both, the Head of Paid Service or his/her 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 the CCfA Protocol set out in this Constitution. The operation of CCfA will be in full compliance with the Protocol and, as for call-in, will be used only 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 16, 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 he/she 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) public speaking in accordance with the Committee Procedure Rules;
- (c) consideration of any matter referred to the committee for a decision in relation to call-in of a decision;
- (d) responses of the Cabinet to reports of the Overview and Scrutiny Committee;
- (e) any recommendations or reports from the Committee's panels or task and finish groups;
- (f) consideration of the Decisions Plan; and
- (g) the business otherwise set out on the agenda for the meeting.

17.2 At every ordinary Overview and Scrutiny Committee meeting at least one member of Cabinet shall attend to give an account of his or her portfolio and answer questions from the committee. Each Cabinet member shall attend at least once a year in rotation. This attendance shall be in addition to any attendance required or invited by the committee in relation to specific items of business. The time set aside for presentation of each portfolio report and questions thereon shall be at the discretion of the Chairman.

17.3 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.

17.4 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.
- 1.2 The Committee will consist of a maximum of 10 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 Performance and Audit Scrutiny Committee but it may resolve to vary this provision by unanimous vote at the Annual Meeting.
- 1.3 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 consider means of improving and promoting the performance management and audit functions of the Council;
  - (iii) within its terms of reference as detailed in 1.3 (i) above, and as an integral part of its role as the Council's Audit Committee, to 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;
- (3) reviewing of Code of Corporate Governance and Statement of Internal Control; and
- (4) 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) Treasury Management**

A Treasury Management 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 each year in good time to meet the statutory deadline for adoption.

- 1.4 It is not within the terms of reference of this Committee to carry out reviews, or to set up panels, 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 appropriate scrutiny committee or Cabinet.

**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 except where these Overview and Scrutiny Committee Procedure rules specify otherwise.

**5. Who chairs Performance and Audit Scrutiny Committee meetings?**

- 5.1 Following discussions between Group Leaders, the Chairman and Vice-Chairman of the Performance and Audit Scrutiny Committee will be appointed by the Council.

- 5.2 The Chairman and Vice-Chairman will hold office until:-
- (a) he/she resigns from the office of Chairman or Vice-Chairman; or
  - (b) he/she is no longer a Councillor; or
  - (c) the next Annual Meeting of the Council save that the Council may remove the Chairman or Vice-Chairman 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 Chairman or Vice-Chairman, 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 Chairman and/or Vice-Chairman 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 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 he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the 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 he/she 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 1.3-1.4 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 Chairman, or in his/her absence, the Vice-Chairman 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 chairman or vice-chairman 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 12, 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 he/she speak or vote in any particular manner.”*

- 11.2 As part of the overview and scrutiny function, the imposition of the party whip is regarded by the Council as incompatible with the Committee’s terms of reference. 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.

## **13. Procedure at Performance and Audit Scrutiny Committee meetings**

- 13.1 The Performance and Audit Scrutiny Committee shall consider the following business:

- (a) minutes of the last meeting;
- (b) public speaking in accordance with the Committee Procedure Rules;
- (c) any decisions or reports of the Cabinet regarding the committee’s work;
- (d) any previous recommendations or reports of the committee referred back to the committee by the Overview and Scrutiny Committee, Cabinet or full Council; and
- (e) the business otherwise set out on the agenda for the meeting.

- 13.2 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.

- 13.3 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.

## **St Edmundsbury Borough 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 and 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.

##### **Members**

- 3.2 A member of the Council may attend a meeting of a committee or sub-committee meeting of which he or she is 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 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.

#### **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.
- 5.2 If an item is added to the agenda later, 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 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 of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
  - (b) a summary of any proceedings 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) no flash or lighting being used, or noise created, without the prior agreement of the chairman; and
  - (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; and
- (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.

## **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 his/her opinion:-

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

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and, in respect of 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**

Exempt information means information falling within the following 7 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.

11.5.1 Information falling within paragraph 11.4.3 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.

11.5.2 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.

11.5.3 Information which:-

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 11.5.1 or 11.5.2 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.

## **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 to reports which in the Monitoring Officer's opinion relate to items during which, in accordance with Rule 11, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

## **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 15 (General Exception) or Rule 16 (Special Urgency) apply. A key decision is as defined in Article 12 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 15 (General exception) or Rule 16 (Special urgency) apply. A key decision is as defined in Article 12 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 (Notice of Meetings).

### **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 by 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 Chairman 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 Chairman of the body making the decision, obtains the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the Overview and Scrutiny Committee, or if the Chairman of the Overview and Scrutiny Committee is unable to act, then the agreement of the Vice-Chairman 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, and repeated within 5 days, impracticable, the meeting may only be held in private where agreement has been obtained from the Chairman of the Overview and Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred. If there is no Chairman, or if the Chairman is unable to act, then the agreement of the Vice-Chairman 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 Chairman, or the Vice-Chairman, 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 Chairman or any 5 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 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that.

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 his/her 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 his/her 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, he or she 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 Overview and Scrutiny Committees**

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 Chairman of the Overview and Scrutiny Committee or, where there is no Chairman, 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, he or she 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 (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 an Overview and Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out in paragraphs 23.1 or 23.2 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 he or she 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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## St Edmundsbury Borough 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 Head of Service 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 him/her.

##### **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 directors**

For the purposes of these rules and of Article 11, the term "chief officers" shall mean the Chief Executive and the 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 Joint Committee of the West Suffolk Councils specifically appointed for that purpose. That Joint Committee must include at least one Member of each Cabinet.

### **4. Appointment of chief officers**

- (a) The Joint Officer Appointments Committee will appoint all Directors.
- (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 his/her nominee, and may not be made by councillors.
- (b) **Assistants to political Groups**  
Appointment of an assistant to a political Group shall be made in accordance with the wishes of that political Group.

### **6. Disciplinary action**

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 Joint 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 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 him/her.
- (c) The Joint 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 Joint 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 Joint Officer Appointments Committee will approve the dismissal of a Director.
- (g) Notice of the dismissal of the Chief Executive or any 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 officer below 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 him/her.
- (i) Directors and the Head of Paid Service have a right of appeal against dismissal to a Joint Chief Officer Appeals Committee specifically appointed for that purpose.

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## St Edmundsbury Borough 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 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 full 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 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 Overview and Scrutiny or 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 5 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.
  - (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 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 (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 Chairman 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 chairman 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 Chairman of the Overview and Scrutiny Committee the consent of the Vice-Chairman 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) Steps taken by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers, or joint arrangements discharging Executive functions to implement Council policy shall not exceed the budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads – as follows:-

(i) the Cabinet - non-recurring expenditure of up to £50,000 in any one case within budget allocations to functions which are the responsibility of the Cabinet;

(ii) executive members (Portfolio Holders) - non-recurring expenditure of up to £50,000 in any one case within budget allocations to functions which are the

responsibility of the Executive Member; virement will also require the agreement of the Leader.

- (iii) authorised officers:-
- (a) provided that it does not constitute a Key Decision, Chief Officers and Assistant Directors be authorised to undertake virements of up to £25,000 on behalf of the Cabinet in any one case between the budgets under their control, subject to consultation with the relevant Portfolio Holder(s) and the Leader and the S151 Officer; such virements should be non-recurring and must not include asset rental or fixed percentage maintenance budgets, interest income or recharges which have implications elsewhere in the budget, and must be confirmed in writing to the S151 Officer in a format approved by him/her and reported to Cabinet via budget monitoring reports; and
  - (b) in the case of budgets allocated to the control of a Committee, Chief Officers and Assistant Directors be authorised to undertake virements of up to £5,000 in any one case between the budgets under their control, subject to consultation with the Committee Chairman and the S151 Officer; such virements must not have implications elsewhere in the budget, and must be confirmed in writing to the S151 Officer in a format approved by him/her and reported to the Committee via budget monitoring reports.

Any in year unplanned contributions from reserves exceeding £10,000 will need to be approved by Cabinet; those at the year end are seen by Council as part of approving the Council's financial statements.

## **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) be in line with that framework. No changes to the 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'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.



## St Edmundsbury Borough 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 both Forest Heath District Council and St Edmundsbury Borough Council (the Councils) to provide a framework of control, responsibility and accountability for the administration of the Councils' 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 Councils' 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 Councils and for establishing proper systems of internal control to ensure that:
- the policies of the Councils and statutory requirements are adhered to;
  - the business of the Councils is carried out in an orderly, efficient and effective manner;
  - the Councils' records are complete and accurate;
  - financial information and reporting is timely and accurate; and
  - the assets of the Councils are safeguarded.
- 2.2 The Section 151 Officer shall make and control arrangements for the payment of the Councils' creditors and for the collection, custody and accounting of all monies received by the Councils.
- 2.3 The Section 151 Officer shall establish an adequate and effective internal audit of the Councils' 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 Councils in accordance with statutory requirements and the policies of the Councils.
- 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 Councils.
- 2.10 Budget holders shall consult with the Joint Leadership Team on any matter which is liable to affect the finances of the Councils. No report to the Cabinet or relevant committee shall be made until such consultation has taken place.
- 2.11 Budget holders may designate officers to be responsible for authorising financial transactions on their behalf. Budget Holders 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 Councils.
- 3.2 All monies received on behalf of the Councils 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 Councils' 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 Councils 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 Cabinets, 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 Cabinets.
- 4.3 The Cabinets shall consider the proposed forward financial plan and each year shall submit appropriate recommendations to the Councils. 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 Councils by the Cabinets and each Committee with finances allocated to it.
- 4.5 The Section 151 Officer shall inform the Cabinets of any significant variation to the financial plan during the financial year. If for any reason any head budget of approved expenditure may be 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 Councils' budget and policy rules, 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 Councils' financial system, for all works, goods or services to be supplied to the Councils 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 Councils' 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 councils 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 Councils. 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 Councils 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 up to a limit of £2500 in any one case. Irrecoverable debts in excess of this amount shall be referred to the relevant Cabinet.

## **7. Contracts**

- 7.1 All contracts made for and on behalf of the Councils 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 Councils have 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 Councils. All decisions shall be taken in accordance with the Councils' Treasury Management Investment Strategy.
- 8.3 All monies held by the Councils 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 Councils, shall be made in the name of the Councils 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 Assistant Director (HR, Legal and Democratic Services) 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 Assistant Director (HHR, Legal and Democratic Services) 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 Assistant Director (HR, Legal and Democratic Services). 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 Assistant Director (HR, Legal and Democratic Services) shall maintain appropriate records and make arrangements for the payment of sums due to Councillors in accordance with the Allowance Scheme approved by the relevant Council.
- 9.6 The Section 151 Officer shall be authorised to write off any irrecoverable overpayment of salaries, wages or expenses up to a limit in any one case of £2500. Sums in excess of this amount shall be referred to the relevant Cabinet.

## **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 relevant 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 The Section 151 Officer shall in consultation with the Assistant Director (HR, Legal and Democratic Services) be authorised to make appropriate ex gratia payments and write off the loss of any stores, equipment and other assets up to £500.
- 10.7 All appropriate employees of the Councils shall be included in a suitable fidelity guarantee insurance.
- 10.8 Officers shall consult the Section 151 Officer and the Assistant Director (HR, Legal and Democratic Services) in respect of the terms of any indemnity which the Councils are requested to give.

## **11. Property**

- 11.1 The Assistant Director (Operations) is the Councils' Asset Registrar and shall maintain an asset register and associated records of all land and buildings owned, leased or managed by the Councils.
- 11.2 An annual report of vacant and underused properties owned by the Councils shall be made to the relevant Cabinet.
- 11.3 The Assistant Director (HR, Legal and Democratic Services) shall have custody of and keep all title deeds in a secure manner.
- 11.4 Where land or buildings are no longer required for their intended use the Asset Registrar shall report to the relevant Cabinet on the suggested future use, or disposal, of the asset.
- 11.5 All officers shall be responsible for maintaining proper security of staff and assets under their control.
- 11.6 The Section 151 Officer shall be responsible for ensuring that adequate controls and security procedures are maintained in connection with the Councils' 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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## St Edmundsbury Borough Council

### West Suffolk Contract Procedure Rules

#### 1. Introduction

- 1.1 These Contract Procedure Rules (CPRs) have been issued in accordance with Section 135 of the 1972 Local Government Act and adopted by both Forest Heath District Council and St Edmundsbury Borough Council (the Councils) to give consistency to procurement across the two Councils. The meaning of words and expressions in *Italics* are given in Appendix 1.
- 1.2 Procurement is the process by which the Councils manage the acquisition of all their goods, services and works. It includes the identification of need, consideration of options and the actual procurement process.
- 1.3 *Officers* responsible for purchasing on behalf of the Councils must comply with these CPRs. They provide the minimum requirements although a more thorough procedure may be appropriate for specific contracts.
- 1.4 These CPRs provide a corporate framework for the procurement of all goods, services and works for the Council. They are designed to ensure that all procurement activity is conducted with openness, probity and accountability. Above all, these CPRs are designed to ensure that the Councils obtain value for money and the required level of quality and performance in all contracts that are entered into.
- 1.5 These CPRs must be read in conjunction with the relevant Council's *Constitution*, the *Procurement Strategy* and the *Procurement Toolkit*.
- 1.6 The disposal of assets and the acquisition, use and disposal of Land and Buildings are not covered by these CPRs and are to be considered alongside the *Financial Procedure Rules*.
- 1.7 For the purposes of these CPRs 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.

1.8 In the event of doubt as to the interpretation of the CPRs, take advice from the *Monitoring Officer*.

## **2. Basic principles**

2.1 It is essential that the following *EU Treaty Principles* MUST be upheld in any procurement:

- Transparency - contract procedures must be transparent and contract opportunities must generally be publicised
- Equal treatment and non-discrimination - potential suppliers must be treated equally
- Proportionality - procurement procedures and decisions must be proportionate
- Mutual recognition - giving equal validity to qualifications and standards from other Member States, where appropriate.

2.2 In addition to the above all procurement must:

- comply with the *Procurement Strategy*, support the Councils' corporate and departmental aims, strategies, policies and procedure
- achieve *Best Value* for public money spent
- be consistent with the highest standards of integrity
- comply with relevant legal requirements
- be undertaken in a timely fashion
- ensure that *Non-commercial Considerations* do not influence any *Contracting Decision*
- be conducted in a sustainable manner, taking environmental impact into account.

## **3. Exclusions**

3.1 All *Relevant Contracts* must comply with these CPRs. *Relevant Contracts* do not include:

- 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 (Shared 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 (Shared 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).

#### **4. Exemptions**

- 4.1 Where a proposed contract is likely to exceed the *EU Threshold* then there can be no exemption.
- 4.2 Below the *EU Threshold* exemptions must only be sought in exceptional circumstances and all exemptions, being a *Contracting Decision*, must be recorded.
- 4.3 Between £50,001 and the *EU Threshold* any exemption must be approved by the *Officer* and *Assistant Director* in consultation with the *Assistant Director (Resources and Performance)*. The *Officer* must produce evidence to support the request for any exemption. The *Assistant Director* shall prepare a report for the next *Cabinet* to support the action taken. The *Assistant Director* shall keep records of all exemptions granted along with reasons and supporting evidence for such exemptions.
- 4.4 Below £50,000 any exemption must be approved by the *Officer* and *Assistant Director*. The *Officer* must produce evidence to support the request for any exemption. There is no requirement to report. The *Assistant Director* shall keep records of all exemptions granted along with reasons and supporting evidence for such exemptions.

4.5 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 *Assistant 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.
- 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(s).
- 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*.

4.6 If an exemption is sought which is not for any of the above reasons, advice must first be obtained from the *Monitoring 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.

## 5. Procurement thresholds and key requirements

Where the *Total Value* for procurement is within the values in the first column below, the *Award Procedure* in the second column and the key requirements in the third column must be followed:



<i>Total Value (excluding VAT)</i>	<i>Award Procedure</i>	<i>Key Requirements</i>
Up to £1,000	GO GET IT!	<ul style="list-style-type: none"> <li>• If assured of value for money; just buy it from anywhere e.g. ASDA, eBay, Amazon, ARGOS, B&amp;Q, etc.</li> </ul>
£1,001-£10,000	Quick Quotation Procedure (8.2)	<ul style="list-style-type: none"> <li>• Advertising through <i>e-procurement</i> recommended</li> <li>• Invite email or written quotations from minimum three suppliers</li> <li>• No requirement to use Formal Quotation Template.</li> </ul>
£10,001-£50,000	Formal Quotation Procedure (8.3)	<ul style="list-style-type: none"> <li>• Use of <i>e-procurement</i> mandatory</li> <li>• Invite minimum three quotations from three suppliers</li> <li>• Use Formal Quotation Template</li> <li>• Open Procedure recommended.</li> </ul>
£50001- <i>EU Threshold</i>	Formal Tender Procedure (8.4)	<ul style="list-style-type: none"> <li>• Use of <i>e-procurement</i> mandatory</li> <li>• Must always consult the Procurement Manager</li> <li>• Use Formal Tender Template</li> <li>• Open Procedure recommended.</li> </ul>
above <i>EU Threshold</i>	EU Tender Procedure (8.5)	<ul style="list-style-type: none"> <li>• Must always consult the <i>Procurement Manager</i> and the <i>Service Manager (Shared Legal)</i></li> <li>• Use of <i>e-procurement</i> mandatory.</li> </ul>

## 6. Officer responsibilities

- 6.1 *Officers* responsible for procurement must comply with these CPRs, *Financial Procedure Rules*, the *Officers' Code of Conduct*, and with all UK and European Union 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 must 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.
  - See 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 Toolkit* and the *Procurement Strategy*.
  - Give consideration to *Contract Management* and prepare a business case if the project is over £50,000 or of *High Risk* or *High Profile*.
  - Keep records of all *Contracting Decisions taken*.
- 6.4 The *Officer* must ensure that timely advice is sought from the *Assistant Director (HR, Legal and Democratic Services)* 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*.

## **7. Contract formalities**

7.1 All *Relevant Contracts* shall be in writing.

7.2 Advice from the *Service Manager (Shared Legal)* and the *Procurement Manager* must be sought for the following contract types:

- where the *Total Value* exceeds the *EU Threshold*
- those involving leasing arrangements
- where it is proposed to use a supplier's own terms and conditions
- those involving the procurement of application software with a *Total Value* of more than £50,000
- agreements involving the development of land for public benefit
- those that are complex in any other way.

7.3 All *Relevant 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(s) to terminate the contract

7.4 Guidance must be sought from the *Service Manager (Shared Legal)* for the terms and conditions that will apply to any contract with a value in excess of £50,000.

## **8. Procedure**

8.1 *Specification and Award Criteria*

8.1.1 The *Officer* must prepare a *specification 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.

8.1.2 Consideration must also be given by the *Officer* to economical, environmental and social benefits of any proposed procurement to include consulting stakeholders where appropriate. Further information is within the *Procurement Toolkit* or advice can be obtained from the *Procurement Manager*.

8.1.3 The *Officer* must define *Award Criteria* and any sub criteria that are appropriate to the procurement and designed to secure an outcome giving *Value for Money* for the council. The basic criteria shall be:

- 'Lowest price'
- 'Most economically advantageous', where considerations such as quality other than price also apply.

8.1.4 *Award Criteria* must not include:

- *Non-commercial Considerations*
- Matters which discriminate against suppliers from the *European Economic Area* or signatories to the *Government Procurement Agreement*.

8.1.5 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 Toolkit* or advice can be obtained from either the *Procurement Manager* or the *Service Manager (Shared Legal)*.

## 8.2 Advertisement of quotation or tender opportunities

8.2.1 *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:

- portal websites specifically created for contract advertisements to include *Suffolk Sourcing* and *Contracts Finder*.
- *Constructionline* or similar specialist portal websites created for contract advertisements
- the Council's website

- the Council’s Twitter account
- national official journals
- the Official Journal of the European Union (OJEU), Tenders Electronic Daily (TED) (even if there is no requirement within the *EU Procedure*)
- Any other appropriate mechanism in consultation with the *Procurement Manager* and *Service Manager (Shared Legal)*.

8.2.2 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

8.2.3 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*.

## **9. Award procedure and detailed requirements**

### **9.1 Go get it! (Up to £1,000)**

9.1.1 Where the estimated value of goods, works or services to be supplied is less than £1,000 the *Officer* must be satisfied that the arrangements made secure the best available terms for the Council.

### **9.2 Quick quotation procedure (£1,001- £10,000)**

9.2.1 All requests for a *Quotation* where the contract has a value of under £10,000 shall be subject to the Councils’ *Standard Terms and Conditions* unless other terms and conditions have been approved by the *Service Manager (Shared Legal)*.

- 9.2.2 *Officers MUST be able to evidence that Quotations were sought from at least three suppliers.*
- 9.2.3 *Officers are encouraged to use e-procurement portal as this adheres to the EU Treaty Principles.*
- 9.2.4 *If e-procurement has not been used then the Officer must ensure that:*
- *The date and time of receipt of each Quotation is suitably recorded*
  - *The details of the Quotation are not disclosed to any interested party*
  - *There are no changes or amendments to the Quotation after submission*
  - *All Quotations are evaluated at the same time and that each Bidder is simultaneously advised in writing of the outcome.*

### **9.3 Formal quotation procedure (£10,001- £50,000)**

- 9.3.1 *The Request for a Formal Quotation shall be issued through the e-procurement portal utilising the standard template available in the Procurement Toolkit 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 (Shared Legal) and will state that no Formal Quotation will be considered unless it is received by the date, time and method stipulated.*
- 9.3.2 *All organisations invited to provide a Quotation must be issued with the same information at the same time and subject to the same conditions.*
- 9.3.3 *A minimum of three Formal Quotations shall be invited where the Officer is satisfied that competitive Quotations will be received from those three. Where the Officer is unsure of the market, consideration may be given to using an open process provided the Officer is satisfied that this will not generate an excessive volume of responses.*
- 9.3.4 *Providing clarification of a Request for a Quotation to a Bidder is permitted and is provided for within e-procurement.*

9.3.5 The *Officer* must consult with the *Procurement Manager* concerning the allocation of roles within *e-procurement*. It is recommended that the designated openers must include at least one lawyer on behalf of the *Service Manager (Shared Legal)*.

9.3.6 For the receipt and opening of a *Formal Quotation* there must be strict compliance with the requirements of *e-procurement*.

#### **9.4 Formal tender procedure (£50,001- EU Threshold)**

9.4.1 All procurement above £50,000 shall be conducted in accordance with advice from the *Procurement Manager* and shall be undertaken as an Open Tender Procedure using e-procurement system.

##### 9.4.2 Open tender procedure

9.4.2.1 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 (Shared Legal)*. It will also state that no *Tender* will be considered unless it is submitted via the *e-procurement* portal.

9.4.2.2 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.

9.4.2.3 Utilising the standard template available in the *Procurement Toolkit*, all *Invitations to Tender* shall include a *Form of Tender*, and other documentation as advised by the *Service Manager (Shared Legal)* or the *Procurement Manager*.

9.4.2.4 Providing *clarification* of an *Invitation to Tender* to *Bidder* is permitted and is provided for within *e-procurement*.

9.4.2.5 For the receipt and opening of a *Tender* there must be strict compliance with the requirements of *e-procurement*.

9.4.2.6 The *Officer* must ensure that there is approval from the *Assistant Director* before awarding any contract above the tender threshold.

## **9.5 EU (European Union) Tender Procedure (above EU Threshold)**

9.5.1 All procurement above the *EU Thresholds* shall be conducted in accordance with advice from the *Service Manager (Shared 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.

9.5.2 All transactions exceeding the *EU Thresholds* must be conducted in accordance with EU procedures and must be advertised in the Official Journal of the European Union (OJEU) which is available for contractors in all member states to see and respond to. Strict rules govern the process in relation to timescales, descriptions and selection procedures and these are in addition to these Contract Procedure Rules. Breaches of *EU Procurement Rules* are subject to harsh penalties for the Contracting Organisation. Advice must be sought from the *Procurement Manager* and the *Service Manager (Shared Legal)* in all circumstances where there is a likelihood of the *EU Thresholds* being exceeded. Further information regarding *EU Procurement Rules* is available within the *Procurement Toolkit*.

## **10. Collaborative arrangements**

10.1 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.

10.2 All procurement made via a local authority procurement consortium or a *Professional Buying Organisation (PBO)* are deemed to comply with these CPRs and no exemption is required. However, procurements above the *EU Threshold* must be let under the *EU Procedure*, unless the consortium has satisfied this requirement already by letting their contract in accordance with the *EU Procedures* on behalf of the Council and other consortium members.



10.3 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 CPRs of the leading organisation, will be deemed to comply with these CPRs and no exemption is required. However, advice must be sought from the *Procurement Manager*.

#### 10.4 Framework agreements

10.4.1 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.

#### 10.5 Dynamic purchasing systems (DPS)

10.5.1 A DPS is a completely electronic process. The DPS is open to any economic operator who meets the selection criteria and submits an indicative *Tender* that is found compliant. The *Contracting Authority* invites the *Bidders* admitted to the system to submit a *Tender* within a reasonable time limit.

### **11. Records and safekeeping**

11.1 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.

11.2 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.

11.3 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.

11.4 Records which relate to an unsuccessful *Tender* must be kept for a minimum period of one year from the start of the Contract.

11.5 *Contracting Decisions* and Post Tender Negotiation with the successful *Bidder* must be retained for one year after the term of the contract has expired whilst all other records must be retained for 6 years after the term of the contract has expired unless the Contract is under seal when they must be retained for 12 years after the term of the contact has expired.

11.6 Details of all *Renewable Contracts* (regardless of value) are and shall be held on a register by the *Procurement Manager* to include:

- 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*.

11.7 The original executed and completed copy of all contracts over the value of £50,000 and all contracts over the *EU Threshold* shall be passed to the *Service Manager (Shared Legal)* for safe-keeping.

11.8 *Assistant Directors* shall be responsible for the safekeeping of all other contracts falling within their designated functions.

11.9 *Officers* shall provide the *Procurement Manager* with a scanned copy of any completed contract as soon as practicable.

## **12. Evaluation, award of contract, and debriefing bidders**

12.1 Apart from the debriefing required or permitted by these CPRs, 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*.

12.2 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.

12.3 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 (Shared 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.

12.4 *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 CPRs and they do not exceed the budget provision. Only the successful *Bidder* will be subject to the appropriate *Financial Vetting*.

12.5 Where the *Total Value* is above the *EU Threshold*, 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 (Shared Legal)*.

12.6 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 (Shared Legal)*:

- how the *Award Criteria* were applied
- the prices or range of prices submitted, in either case not correlated to *Bidders'* names.

12.7 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*.

### **13. Post-tender negotiation**

13.1 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 Toolkit.

- 13.2 Advice must be obtained from the *Service Manager (Shared 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.
- 13.3 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.

## Glossary of Terms

<b>Agent</b>	A person or organisation acting on behalf of the Council or on behalf of another organisation.
<b>Award Criteria</b>	The criteria by which the successful Quotation or Tender is to be selected.
<b>Award Procedure</b>	The procedure for awarding a contract.
<b>Best Value</b>	The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the council. [See also Value for Money].
<b>Bidder</b>	Any person, firm or organisation who asks to be or is invited to submit a quotation or Tender.
<b>Bond</b>	An insurance policy in the form of either a Performance <i>Bond</i> or a Guarantee <i>Bond</i> : if the contractor does not do what it has promised under a contract with the council, the council can claim from the insurer the sum of money specified in the <i>bond</i> . A <i>bond</i> is intended to protect the council against a level of cost arising from the contractor's failure.
<b>Cabinet</b>	The Council's <i>Cabinet</i> as defined in the Constitution.
<b>Cabinet Member</b>	A member of the <i>Cabinet</i> to whom political responsibility is allocated in respect of specified functions.
<b>Clarification</b>	A request for information from a bidder during the process. The information, if supplied, is to be provided to all Bidders.  Alternatively additional information to be supplied to all Bidders during the process.
<b>Constitution</b>	The legally binding constitutional document approved and adopted by the council which:

	<ul style="list-style-type: none"> <li>• allocates powers and responsibility within the council and between it and others</li> <li>• delegates authority to act to the <i>Cabinet</i>, Committees, Portfolio Holders, Director or Assistant Directors and Officers</li> <li>• regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.</li> </ul>
<b>Consultant</b>	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, <u>and</u> where the council has no ready access to employees with the skills, experience or capacity to undertake the work.
<b>Contract Award</b>	Process by which the successful bidder and the unsuccessful bidders are advised of the outcome of the evaluation.
<b>Contract Register</b>	The register to be kept and maintained by the Procurement Manager recording details of all renewable contracts entered into by the council.
<b>Contracting Authority</b>	An authority that has established a Framework Agreement that is available for use by other organisations within the Public Sector.
<b>Contracting Decision</b>	Any decisions which impacts on either the procedure or the outcome of the process to include: <ul style="list-style-type: none"> <li>• withdrawal of Invitation to Tender</li> <li>• whom to invite to submit a Quotation or Tender</li> <li>• shortlisting</li> <li>• award of contract</li> <li>• termination of a contract.</li> </ul>
<b>E-procurement</b>	A secure means to store and transmit Expressions of Interest, Invitations to Tender and other documentation in relation to Tenders (e.g. to receive queries from Candidates, and to issue Tender <i>clarifications</i> , Invitations to Submit Outline and Detailed Proposals, and Best and Final Offers), and then to receive and manage Tenders

	electronically via the Internet. Any process used must be compliant with HMG Information Security Standards, the requirements of the Manual of Protective Security and all UK legislation relevant to the processing of information.
<b>EU Procedure</b>	The procurement procedure required to be followed by the EU where the Total Value exceeds the EU Threshold.
<b>EU Threshold</b>	The contract values at which the EU public procurement directives apply, as amended from time to time.
<b>E U Treaty Principles</b>	The principles enshrined within the various Treaties. Although these apply directly to all procurement activity above the E U Threshold, they should apply, as a matter of good practice, to all procurement regardless of value.
<b>European Economic Area</b>	The members of the European Union, and Norway, Iceland and Liechtenstein.
<b>Financial Procedure Rules</b>	The council's financial regulations incorporated within its <i>Constitution</i> .
<b>Financial Vetting</b>	The process by which Officers appointed by Assistant Director (Resources and Performance) review the information supplied by the Bidder or Bidders to establish their financial suitability.
<b>Formal Quotation</b>	To process of obtaining a quotation using the e-procurement portal. Officers can either invite a number of suppliers to submit Bids or, alternatively, use the open process whereby the project is advertised generally and any supplier can submit a bid.
<b>Framework Agreement</b>	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged. Examples of Framework Agreements include those awarded by the



	Government Procurement Service and others.
<b>Government Procurement Agreement</b>	The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European Economic Area are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.
<b>Government Procurement Service</b>	Government Procurement Service (formerly Office of Government Commerce Buying Solutions).
<b>Assistant Director (HR, Legal and Democratic Services)</b>	As identified in the <i>Constitution</i> or another officer of the Council nominated by the Assistant Director (HR, Legal and Democratic Services) for the purposes of these Contract Procedure Rules and in a specific procurement exercise.
<b>Assistant Director (Resources and Performance)</b>	As identified in the <i>Constitution</i> or another officer of the Council nominated by the Assistant Director (Resources and Performance) for the purposes of these Contract Procedure Rules and in a specific procurement exercise.
<b>Assistant Director</b>	An Assistant Director as identified in the <i>Constitution</i> or another officer of the Council nominated by one of these to act in the capacity of Assistant Director for the purposes of these Contract Procedure Rules and in a specified procurement exercise.
<b>High Profile</b>	A high-profile procurement is one that could have an impact on functions integral to council service delivery should it fail or go wrong.
<b>High Risk</b>	A high-risk procurement is one which presents the potential for substantial exposure on the council's part should it fail or go wrong.
<b>High Value</b>	A high-value procurement is where the value exceeds the EU Threshold.
<b>Invitation to Tender</b>	Invitation to tender documents in the form required by these Contract Procedure Rules.

<b>Key Decision</b>	Decisions that are defined as key decisions in the Constitution.
<b>Line Manager</b>	The Officer's immediate superior or the Officer designated by the Director or Assistant Director to exercise the role reserved to the line manager by these Contract Procedure Rules.
<b>Monitoring Officer</b>	As identified in the <i>Constitution</i> .
<b>Nominated Suppliers and Sub-Contractors</b>	Those persons specified in a main contract for the discharge of any part of that contract.
<b>Non-commercial Considerations</b>	<p>Considerations which may either be brought to the attention of the officer and may be within his own knowledge but have no significance when evaluating a potential bidder. To include:</p> <ul style="list-style-type: none"> <li>• The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of, or the other opportunities afforded to, their workforces ('workforce matters').</li> <li>• Whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only.</li> <li>• Any involvement of the business activities or interests of contractors with irrelevant fields of government policy.</li> <li>• The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes').</li> <li>• The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors.</li> </ul>

	<ul style="list-style-type: none"> <li>• Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees.</li> <li>• Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support.</li> <li>• Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984.</li> <li>• Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be non-commercial considerations to the extent necessary or expedient to comply with <i>Best Value</i>; or where there is a transfer of staff to which the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply.</li> </ul>
<b>Officer</b>	The officer designated by the Assistant Director to deal with the contract in question.
<b>Officers' Code of Conduct</b>	The joint Officers' Code of Conduct adopted by both councils and regulating conduct of Officers, as incorporated into the <i>Constitution</i> .
<b>Parent Company Guarantee</b>	A contract which binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Council, the Council can require the parent company to do so instead.
<b>Post Tender Negotiations</b>	In limited circumstances negotiations can take place with Bidders after the evaluation process has been completed and prior to the Contract Award.
<b>Procurement Manager</b>	The Officer appointed by the Assistant Director (Resources and Performance) to provide Procurement advice across the Councils.
<b>Procurement Strategy</b>	The document setting out the council's corporate approach to procurement and key priorities.

<b>Procurement Toolkit</b>	The suite of internal guidance documents, together with a number of standard documents and forms, available on the intranet, which supports the implementation of these Contract Procedure Rules.
<b>Professional Buying Organisation</b>	An organisation established by one or more authorities for the sole purpose of setting up Framework Agreements thereby enabling collaborative purchasing.
<b>Quick Quotation</b>	A simplified quotation process whereby a number of quotations are sought from at least 3 suppliers without using the e-procurement portal.
<b>Quotation/Quote</b>	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender). See also <b>Quick Quotation</b> and <b>Formal Quotation</b> .
<b>Relevant Contract</b>	Contracts to which these Contract Procedure Rules apply.
<b>Renewable Contract</b>	Contracts which are for repeatable purchases of Goods or Services or Works and are not one-off purchases.
<b>Request for Quotation</b>	Request for Quotation documents in the form required by these Contract Procedure Rules.
<b>Service Manager</b>	The Line Manager's immediate superior.
<b>Service Manager (Shared Legal)</b>	As identified in the <i>Constitution</i> .
<b>Shortlisting</b>	The process of selecting Candidates who are to be invited to quote or bid or to proceed to final evaluation.
<b>Specification</b>	A clear description of the requirements under the Contract. The amount of detail will vary according to the value and complexity of the purchase.
<b>Standard Terms and Conditions</b>	The terms and conditions agreed by the Council as being applicable in all contracts as an alternative to either bespoke Terms and Conditions or the Terms and Conditions of the other Party to the Contract or

	Agreement.
<b>Tender</b>	A Candidate's proposal submitted in response to an Invitation to Tender.
<b>The Public Contracts Regulations 2006</b>	The Public Contracts Regulations 2006 (SI 2006 No. 5), as amended or replaced from time to time.
<b>Total Value</b>	<p>The whole of the value or estimated value (in money or equivalent value) for a single procurement or disposal calculated as follows:</p> <ul style="list-style-type: none"> <li>(a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period</li> <li>(b) where the procurement involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months</li> <li>(c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48</li> <li>(d) for feasibility studies, the value of the scheme or contracts which may be awarded as a result</li> <li>(e) for Nominated Suppliers and Sub-contractors, the total value shall be the value of that part of the main contract to be fulfilled by the Nominated Supplier or Sub-contractor.</li> </ul>
<b>TUPE</b>	<p>Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006 No. 246): subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the Council is transferred from one organisation (e.g. private contractor or local authority in-house team) to another (e.g. following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to</p>

	<p>enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.</p>
<p><b>Value for Money</b></p>	<p>Value for money is not the lowest possible price; it combines goods or services that fully meet the council's needs, with the level of quality required, delivery at the time the council needs it, and at an appropriate price.</p>

## St Edmundsbury Borough Council

### JOINT INDEPENDENT REMUNERATION PANEL PROCEDURE RULES

Forest Heath District Council and St Edmundsbury Borough Council (“the Councils”) have established a Joint District / Borough Independent Remuneration Panel to make recommendations on remuneration levels for District and Borough Councillors.

#### 1.0 TERMS OF REFERENCE

1.1 The Panel shall be in place for a term of office for 4 years, commencing 1 June 2016, expiring on 31 May 2020. The Panel shall produce a report by the 30 November each year, making recommendations to each of the District and Borough Councils as to:

- a) the amount of the basic allowance which should be payable to its Elected and Co-opted Members;
- b) the responsibilities, roles or duties where special responsibility allowance should be payable and the amount of such allowances;
- c) the amount of any travelling and subsistence allowance which should be payable to its Elected and Co-opted Members;
- d) whether child care and dependants’ carers’ allowance should be payable and the amount of such allowance;
- e) Annual adjustment / increase of allowances;
- f) such other functions as may be allocated to the Panels by Statute, from time to time.

1.2 The Panel’s Reports shall be submitted to the Councils by way of the Chairman of the Panel.

#### 2.0 PANEL MEMBERSHIP AND APPOINTMENT

2.1 The Membership of the Joint Independent Remuneration Panel shall consist of up to 6 Members appointed by the Joint Independent Remuneration Selection Panel.

2.3 The following persons cannot be appointed to the Panel, namely a person:

- a) who is a Member or Co-opted Member of either of the Councils; or
- b) a person who is disqualified from being or becoming an elected Member of either of the Councils.

- 2.4 Appointment to the Panel shall be for a period of not more than 4 years.
- 2.5 A Member of the Panel may be reappointed following the end of their term of appointed provided that the Councils carry out a recruitment process involving public advertisement.

- 2.6 The Members of the Panel shall receive the following allowances to be reviewed every 4 years:

Panel Members: £100.00 per Meeting attended.

- 2.7 Wherever possible the Panel Members shall be treated as separate and individual consultants who are responsible for their own tax, National Insurance etc.

- 2.8 A person specification shall be drawn up and agreed by the Joint Independent Remuneration Selection Panel, to ensure that the candidates who are appointed:

- a) are able to demonstrate a high degree of personal integrity;
- b) are not Members of any Local Authority and are not disqualified from being or becoming a Member of a Local Authority;
- c) have, if possible, the appropriate level of skill, knowledge and understanding of setting remunerations;
- d) have the necessary time and commitment for the role;
- e) will disclose the extent of their connections to any political party or other group and whether these are such as to risk the effective discharge of the Panel's functions were the candidate to be appointed.

- 2.9 Terms of appointment shall include a provision that the Council will have the right to remove particular Members from the Panel before the 4 year term expires in special circumstances such as:

- a) Becoming disqualified for any of the following reasons:
  - An elected Councillor of any Local Authority;
  - Employed by Forest Heath District Council or St Edmundsbury Borough Council;
  - A senior employee (in a politically restricted post) of another local authority;
  - The subject of a bankruptcy restrictions order or interim order;
  - Subject to a conviction in the last 5 years of an offence with a sentence of imprisonment (whether suspended or not) for a period of not less than 3 months without the option of a fine; and



- In debt to or in dispute with Forest Heath District Council or St Edmundsbury Borough Council.
- b) Breach of confidentiality.
  - c) Persistent non-attendance; and
  - d) Any other act or behaviour which may bring the Panel or the Councils into disrepute.

### **3.0 PANEL OPERATING RULES**

3.1 The Panel's terms of office shall commence on 1 June 2016;

3.2 The Panel shall:

- a) appoint its own Chairman at the first Meeting and, thereafter, at the first Meeting in each Municipal year;
- b) require a quorum of 3 at all Meetings;
- c) meet a minimum of once in each Municipal year, with such additional Meetings as necessary to fully discharge the functions of the Panel; and
- d) otherwise devise its own rules for the conduct of Meetings providing that such rules are consistent with legislative requirements and good governance practice.

### **4.0 DELEGATED FUNCTIONS**

4.1 The Panel shall have the following delegated functions:

- a) To research Members' Allowances schemes in other relevant Authorities;
- b) To gather evidence from interested persons and relevant organisations
- c) To conduct interviews with relevant persons; and
- d) To produce the Annual Report to the Councils, in line with the Terms of Reference of the Panel, and the Chairman of the Panel to present recommendations at both Council meetings.

4.2 Note:

- a) A copy of the relevant Report shall be provided to the relevant Council;

- b) Once having received the Report, the Council shall, as soon as reasonably practicable, ensure that copies of that Report are available for inspection by members of the public at the principal office of the Authority, at all reasonable hours; and
- c) Once having received the Report, the Council shall publish in one or more newspapers circulating in its area, a notice which:
  - i) states that it has received recommendations from an Independent Remuneration Panel in respect of its scheme;
  - ii) describes the main features of the Panel's recommendations;
  - iii) specifies the recommended amounts of each allowance mentioned in the Report in respect of that Authority;
  - iv) states that copies of the Panel's Report are available at both Councils offices for inspection by members of the public at such times as may be specified by the Councils in the notice; and
  - v) specifies the addresses of both Councils offices at which such copies are made available.
- d) The relevant Councils shall supply a copy of any Report made by the Panel, where possible electronically, to any person who requests a copy. Where a hard copy is provided, both Councils may charge such reasonable copying and postage fees, as may be determined from time to time.

**PART 5**  
**CODES AND PROTOCOLS**

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## ***St Edmundsbury Borough Council***

### ***Suffolk Local Code of Conduct for Members***

In accordance with S 26 to 37 of the Localism Act 2011 on 19 June 2012 St Edmundsbury Borough Council ( the Council ) resolved to adopt the Suffolk Local Code of Conduct for the purposes of discharging its duty to promote and maintain high standards of conduct within its area.

Until otherwise amended or replaced by a decision of the Council, the Suffolk Local Code of Conduct set out below shall hereafter apply to all elected members and any co-opted members entitled to vote on any decisions of the council or its committees, sub committees or joint committees when acting in their capacity as a member of the Council.

#### **Preamble**

The Suffolk Local Code of Conduct shall be interpreted in accordance with the following 7 principles of public life identified by the Committee on Standards in Public Life chaired by Lord Nolan:

**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 material benefits for themselves, their family, or their friends.

**Integrity** - Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**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.

**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.

**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.

**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.

**Leadership** - Holders of public office should promote and support these principles by leadership and example.

## **SUFFOLK LOCAL CODE OF CONDUCT**

1. You must treat others with respect.
2. You must not —
  - (1) do anything which may cause your council to breach any of the Council's duties under the Equality Act 2010
  - (2) bully any person;
  - (3) intimidate or attempt to intimidate any person who is or is likely to be—
    - (a) a complainant,
    - (b) a witness, or
    - (c) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her council's code of conduct; or
  - (4) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your council.
3. You must not —
  - (1) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
    - (a) you have the consent of a person authorised to give it;
    - (b) you are required by law to do so;
    - (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
    - (d) the disclosure is reasonable, in the public interest, made in good faith and in compliance with the reasonable requirements of the council; or
  - (2) prevent another person from gaining access to information to which that person is entitled by law
4. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or council into disrepute.

5. You —
- (1) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
  - (2) must, when using or authorising the use by others of the resources of your council—
    - (a) act in accordance with your council's reasonable requirements;
    - (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (3) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
6. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—
- (a) your council's chief finance officer; or
  - (b) your council's monitoring officer,
- where that officer is acting pursuant to his or her statutory duties.
6. (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your council.

## **7. Registration of interests**

- 7.1. You must register within 28 days of becoming a member of the Council (and notify the Council's Monitoring Officer of any changes within 28 days) any Disclosable Pecuniary Interests (DPIs) you may have for publication in the Register of Members' Interests . (See Appendix A to this Code.)
- 7.2. You may not at any time discharge any function or participate in any Council business or discussions, or vote on any issues that relate to or concern any of your DPIs where you are aware that you have a relevant DPI. You may not remain in the chamber or meeting room or in the public gallery when any matter that relates to any of your DPI is under discussion or debate unless you have requested and obtained a written dispensation from your Council's Monitoring Officer in advance of the relevant meeting.
- 7.3. You must register within 28 days of becoming a member of the Council (and notify your Council's Monitoring Officer of any changes within 28 days) any non statutory Local Non Pecuniary Interests (LNPIs) set out in Appendix A to this code but you may participate in any discussions or debates relating to or concerning any of your LNPIs after the date of registration.

- 7.4. You must declare any DPIs or LNPIs to a meeting where business is relevant to those interests, including those interests that are already registered with the Monitoring Officer or where registration is pending.
- 7.5. You must register, within 28 days, any gifts and hospitality received by you in accordance with the instructions issued within your Council by the Monitoring Officer.
- 7.6. The Council's Register of Interests will be available for inspection at the Council offices during normal office hours, and will be published on the Council's website.

## **8. Sensitive Interests**

You may also apply to your Council's Monitoring officer for non publication of the full details of any of your DPIs or LNPIs where you reasonably believe that publication of the details of a particular DPI or LNPI could result in your being subjected to violence or intimidation. In considering such applications the Monitoring Officer shall have regard to any representations made by you in determining whether he or she considers the relevant DPI or LNPI should be treated as a Sensitive Interest and excluded from the published version of the Register of Members' Interests.

*(Footnote:*

*\*Within this Code of Conduct, the term 'co-opted members' shall have the meaning as defined in the Localism Act 2011; Section 27(4)).*



**Part 1****Description of categories of Disclosable Pecuniary Interests**

You have a Disclosable Pecuniary Interest in any business of the Council if it is of a description set out in 1 - 7 below and is either:

- (a) An interest of yours
- (b) An interest of your spouse or civil partner
- (c) An interest of a person with whom you are living as husband and wife or as civil partners

and, in the case of paragraphs (b) and (c), you are aware that they have the interest.

In these descriptions the term "relevant person" is used to mean you as member and any such person as set out in paragraphs (b) and (c)

1. Any employment, office, trade, profession or vocation carried on for profit or gain.
2. Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a member, or towards your 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 other than from a registered political party.
3. Any beneficial interest in securities of a body where -
  - (1) that body (to your knowledge) has a place of business or land in the area of the Council and
  - (2) either:
    - (a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - (b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
4. Any contract which is made between the relevant person, or a body in which they have a beneficial interest, and the Council -
  - (1) under which goods or services are to be provided or works are to be executed; and
  - (2) which has not been fully discharged.

5. Any beneficial interest in any land in the Council's area.
6. Any tenancy where to your knowledge (a) the landlord is the Council and (b) the tenant is a body in which a relevant person has a beneficial interest.
7. Any licence (alone or jointly with others) to occupy land in the Council's area for a month or longer.

## **Part 2**

### **Description of categories of Local Non Pecuniary Interests**

- (1) Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
- (2) Any body –
  - (a) exercising functions of a public nature;
  - (b) directed to charitable purposes; or
  - (c) 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;
- (3) Any person from whom you have received a gift or hospitality with an estimated value of at least £25.

**CODE OF CONDUCT FOR  
EMPLOYEES**

**October 2007  
(Revised February 2017)**

## 1. Introduction

- 1.1 This document provides guidance to all employees of St Edmundsbury Borough 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 expect the highest standards of conduct from all employees who work in local government. As set out in the Council's Corporate Plan, the Council aims to continue to be an excellent performing council and 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 Local Government Management Board. A copy is issued to every employee of St Edmundsbury Borough Council. 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 as set out in the Employee Guide.

## 2. Standards

- 2.1 Local government 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 Guide", 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 an Assistant Director of St Edmundsbury Borough Council.
- 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 authority 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 Council's intranet.

**3.2 *Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from a Councillor, which is personal to that Councillor and does not belong to the Council, should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.***

### 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. Further guidance on this matter can be found within the Protocol of Member / Officer Relations contained within part 5 of the Council's Constitution.

4.2 Subject to the authority's conventions, 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.

## 5. Relationships

### 5.1 Councillors

5.1.1 Mutual respect between employees and individual Councillors is essential to good local government. However, close personal familiarity between employees and individual Councillors can damage professional relationships and prove embarrassing to other employees and Councillors and should, therefore, be avoided.

### 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 This links to the diversity aspect of the Council's Corporate Plan to being 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 Assistant 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 Assistant Director. Assistant Directors 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 which can be found in part 4 of the Council's Constitution.

## 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 line with the Council's Recruitment and Selection procedure. 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.

## 7. Outside Commitments

7.1 Employees at Grade 6 and above should not engage in any other business or take up any other appointment without the written consent of the Council. All such commitments must be notified in writing to the appropriate Assistant Director who will decide whether there is any Conflict of Interest. A record of all such correspondence will be retained on the employees 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 Assistant Director/Chief Finance Officer (CFO), as appropriate, any financial, or non-financial, interests which could reasonably be considered to conflict with the Authority's interests.

8.2 Employees should declare, in writing, to their Assistant Director or CFO, 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 Assistant Director/CFO 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 Assistant Director/CFO 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 Council are owned or managed by a family member who is in direct contact with an employee of the Council responsible for purchasing such services.

- 8.4 If an employee of the Council does have a personal relationship with another officer of the Borough Council or a Councillor this should be declared in writing to their relevant Assistant Director and should also be disclosed at the selection stage of the recruitment process.

**Footnote:** *Assistant Directors/CFO should report to the Chief Executive and the Chief Executive should report to the Monitoring Officer of the Council.*

## 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 Council's intranet site.

9.1.1 Each Assistant Director and the Chief Finance Officer (CFO) for Financial Services 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

- 9.2 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.

- 9.3 Registers will be retained for a period of 6 years plus the current year.

*Note: Supplementary Guidance and forms in appendices*

## 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 Council's 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 found part 4 of the Council's 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 an Assistant Director 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.

*Assistant Directors should report to the Chief Executive and the Chief Executive should report to The Monitoring Officer.*

## 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.

## 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. Hospitality

- 14.1 The NJC Scheme of Conditions of Service for APT&C staff states at paragraph 70(a) on official conduct:

'The public is entitled to demand of a local government officer conduct of the highest standard and public confidence in his integrity would be shaken were the least suspicion to arise that he could in any way be influenced by improper motives.'

- 14.2 Furthermore, under the Prevention of Corruption Act 1916, the giving of any money, gift or consideration to an officer by a person trying to obtain a public contract is deemed to have been given corruptly unless the

recipient proves to the contrary. In other words, officers are presumed guilty until they prove their innocence.

### 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 money or alcohol. If refusal of alcohol would offend, the gift should be reported to their Assistant 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 Assistant Director or the Chief Finance Officer (as appropriate to their Directorate.)

14.3.6 The Assistant Director (or the Chief Finance Officer for Financial Services) shall be responsible for deciding whether the gift should be retained, returned or forwarded to some charitable or other deserving cause. A register of gifts is retained by each Assistant Director. This will be in a standard format as attached detailed in the supplementary guidance. The register will be subject to review by internal and external auditors as required. Registers will be retained for a period of 6 years plus the current year.

14.3.7 Registers will be reviewed annually, in January, by the Chief Executive to ensure that registers are up-to-date and working effectively. It is the responsibility of the P.A to the CEO to call in the registers annually and to place a reminder of the Procedures regarding the Registers in teamwork at that time.

### 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 authority 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 Assistant Director. They should be properly authorised and recorded.

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 Assistant Director/Chief Finance Officer gives consent to attendance in advance and where the Council is 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 Assistant Director/CFO. This is recorded in the Hospitality Register kept by the Assistant Director/CFO.

*Note: Supplementary guidance and forms available in appendices)*

## **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 the Financial Procedure Rules within part 4 of the Council's Constitution.

## **16. Miscellaneous**

**16.1 *Employees must comply with the Borough Council's 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 employees of the Borough Council, its effect will be greater for those employees involved, for example, in the management and policy making processes of the Borough Council. 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 Resource Services.

17.2 This policy will be subject to a review every two years which will be initiated by Human Resource Services in consultation with trade unions.

17.3 Suggestions for any changes to this document should also be forwarded to Human Resource Services.

17.4 Readers of this document are strongly advised to read the Supplementary Guidance Appendix C.

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## **PROTOCOL ON MEMBER/OFFICER RELATIONS**

This initial protocol will be reviewed by the Standards Committee and may be supplemented by specific protocols or guidance.

### **1. Introduction**

- 1.1 The purpose of this Protocol is to guide Members and officers of the Council in their relations with one another so as to ensure the smooth running of the Council.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other issues.

### **2. Role of Members/Officers**

- 2.1 Both Councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, their Committees and Sub-Committees.
- 2.2 Members undertake many different roles. Broadly these are:-
  - (a) as politicians – expressing political values and supporting the policies of the group to which they belong;
  - (b) as representatives and advocates – representing the ward and the citizens who live there;
  - (c) as decision-makers – on full Council, on the Cabinet, on Committees, on partnership organisations;
  - (d) as policy makers – developing and reviewing policy and strategy;
  - (e) providing scrutiny and overview - monitoring and reviewing policy implementation and service quality;
  - (f) as regulators - regulating certain activities eg planning, licensing; and
  - (g) as community leaders and networkers - through active partnerships with other organisations.
- 2.3 In broad terms, officers have the following main roles:-

- (a) managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services and for proper practice in discharging their responsibilities;
- (b) providing advice to the Council, the Cabinet, its Committees, Sub-committees and Members in respect of its services;
- (c) initiating policy proposals as well as implementing agreed policy;
- (d) ensuring that the Council always acts in a lawful manner.

### **3. Relations between Members and Officers**

- 3.1 Mutual respect between Members and officers is essential to good local government. Close personal familiarity between individual Members and officers can damage this relationship and prove embarrassing to other Councillors and officers.
- 3.2 It is not enough to avoid actual impropriety. Members and officers should, at all times, avoid any occasion for suspicion and any appearance of improper conduct. Members must declare to the Chief Executive any relationship with an officer which might be seen as influencing their work as a Member or vice-versa. This includes any family, business or close personal relationship. It is not possible to define exactly the range of relationships that would be considered as close or personal. Examples, however, would include a family or sexual relationship or regular social mixing such as holidays or meals together.
- 3.3 Officers serve the Council through its Cabinet, Committees, Sub-committees and Working Groups. They work to the instructions of their senior officers - not individual members of the Council, whatever office the Member may hold. It follows, therefore, that officers must not be asked to exceed the bounds of authority they have been given by their manager nor should they have unreasonable demands placed on them in terms of support to an individual Member (or Members).
- 3.4 In line with the need for "mutual respect" it is important that any dealings between Members and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position.

### **4. Complaints or Concerns about Officers or Services**

- 4.1 Members have the right to criticise reports or the actions taken by officers but they should always:-
  - (a) avoid personal attacks on or abuse of officers;
  - (b) ensure that criticism is constructive and well founded; and
  - (c) take up an individual concern with the officer privately, where possible.

- 4.2 Members should not raise matters relating to the conduct or capability of an officer at committee meetings or in any public forum. This could be damaging both to effective working relationships and to the image of the Council. An officer has no means of responding to such criticisms in public. If a Member feels he has not been treated with the proper respect, courtesy or has any concerns about the conduct or capability of an officer, and fails to resolve it through direct discussion with the officer, he should raise the matter with the appropriate Manager. The Manager will look into the facts and report back to the Member. If the Member continues to feel concern, he should then report it to the appropriate Chief Officer who will look into the matter afresh. A complaint about a Manager should be raised with the appropriate Chief Officer and then the Chief Executive. Similarly a complaint about a Chief Officer should be raised with the Chief Executive. A complaint about the Chief Executive should be raised with the Leader and/or the statutory officers. Any action taken against an officer in respect of a complaint will be in accordance with the provisions of the Council's disciplinary rules.
- 4.3 Where an officer feels that he has not been properly treated with respect and courtesy he should raise the matter with his Manager, Chief Officer or the Chief Executive as appropriate, especially if he does not feel able to discuss it with the Member concerned. In these circumstances the Manager, Chief Officer or Chief Executive will take appropriate action by approaching the individual Member and/or Group Leader.
- 4.4 Members and officers have a duty to raise any issues where they have reason to believe fraud or corruption of any sort is involved. (See Anti-Fraud and Anti-Corruption Policy Statement and "Whistleblowing Guide"). The Standards Committee may, in certain circumstances, consider complaints of misconduct made against individual Members.

## **5. Officer advice to Members and Party Groups**

- 5.1 It must be recognised by all officers and Members that in discharging their duties and responsibilities, officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual Member of the Council.
- 5.2 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to provide information to party groups but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual Members, treat them in a fair and even handed manner.
- 5.3 The support provided by officers can take many forms, ranging from a briefing meeting with the Leader or Chairman/Vice-Chairman prior to a Cabinet or Committee meeting to a presentation to a full party group meeting. Whilst in practice such officer support is likely to be in most

demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.

5.4 Certain points must, however, be clearly understood by all those participating in this type of process, Members and officers alike. In particular:-

- (a) Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings or parts of meetings, when matters of party business are to be discussed;
- (b) Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
- (c) Similarly, where officers provide information and advice to a party group in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Cabinet, relevant Committee or Sub-Committee when the matter in question is considered.

5.5 Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Members' Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality). For this and other reasons officers may not attend and give information and advice as they would to a Members' only meeting.

5.6 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relate the content of any such discussion to another party group.

## **6. Officer/Chairman Relationships**

6.1 It is clearly important that there should be a close working relationship between Members of the Cabinet, the Chairman of a Committee or Sub-Committee and the officers who report to or interact with that body. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officer's ability to deal impartially with other Members and other party groups.

6.2 As with delegated powers in the scheme for the Responsibility for Functions, at some meetings, a resolution may be passed which authorises named officers to take action between meetings in consultation with the portfolio holder or Chairman. It must be recognised that it is the



officer, rather than the Chairman, who takes the action and it is the officer who is accountable for it.

- 6.3 Finally, it must be remembered that officers are accountable to their Manager and that, whilst officers should always seek to assist a portfolio holder, a Chairman (or indeed any Member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Chief Officer.

## **7. Correspondence**

- 7.1 Correspondence between an individual Member and an officer, particularly when it has been initiated by the Member, should not normally be copied (by the officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of "silent copies" should not be employed.
- 7.2 Official letters on behalf of the Council should normally be sent in the name of the appropriate officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

## **8. Media Liaison**

- 8.1 Communications with the media can be an important part of a Member's workload. Generally, Members provide comments and views and officers provide factual information. If any Member is unsure about the facts of any issue he should contact the appropriate officer or ask the media representative to do so.
- 8.2 Official media liaison for the Council is handled by the Public Relations Unit of the Council. A separate protocol on publicity and media communications may be issued by the Council and this must be observed.
- 8.3 All local government publicity material must also comply with the national code of recommended practice on local authority publicity. The Public relations Unit should be contacted with any queries in this respect.
- 8.4 If a Member contacts or is contacted by the media he should indicate in what capacity he is speaking, e.g. in a personal capacity, as Ward Member, as a Member of the Cabinet, as Chairman of a Committee, on behalf of the Council or on behalf of his political group. In certain circumstances it may be useful to advise the Public Relations Unit, or other appropriate officer, of the Member's press release or the discussion.

## **9. Conclusion**

- 9.1 Mutual understanding, openness and basic respect are the greatest safeguard of the integrity of the Council, its Members and officers.
- 9.2 Copies of the Protocol will be issued to all Members along with other documentation (e.g. Rules of Procedure) upon election.

## **PROTOCOL FOR SPEAKING AT MEETINGS OF THE CABINET**

Detailed below is the protocol for Councillors, who are not Members of the Cabinet, speaking at meetings of the Cabinet.

### **1. Attendance at Cabinet meetings**

1.1 Any Member may attend a meeting of the Cabinet.

### **2. Speaking at meetings of the Cabinet**

2.1 Members will be entitled to address the Cabinet when:-

- (a) they are presenting the formal report of a Committee, Working Party or Panel; or
- (b) they have moved a motion at full Council which has been referred to the Cabinet for consideration (in the absence of this Member, the seconder of the motion may speak).

2.2 Otherwise, a Member may not speak without first having obtained the permission of the Leader of the Council. Requests must be made to the Leader before the start of the meeting.

2.3 However, permission can be taken to be granted in the following circumstances:-

- (a) Member(s) wishing to speak on an item on the Agenda which is a local matter directly and specifically affecting their ward; or
- (b) a Member wishing to speak to an item on the Agenda which he/she has requested the Leader to include.

2.4 A Member wishing to speak under Section 2.3 above need only make the Leader aware of their wish to speak immediately before the start of the meeting.

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## MEMBERS' E-MAIL AND INTERNET USAGE POLICY

### 1. Introduction

- 1.1 **It is vital that you read this Policy carefully.** If there is anything that you do not understand, please ask HLDS to explain. Once you have read and understood this Policy, you must sign it and return the signed copy to Democratic Services. If you wish to refer to the Policy in the future it is in the Council's Constitution, on the website. If the signed agreement is not returned within a reasonable time your use of e-mail and internet facilities may be withdrawn.
- 1.2 This Policy contains important rules covering e-mail, internal and external, and access to the Internet. Many of the rules apply equally to the Council's other methods of communicating with the outside world such as letter, fax and telephone.
- 1.3 This Policy explains how e-mail and Internet access should be used. It explains what you are allowed to do and what you are not allowed to do. If you have any general problems with this Policy please contact the Assistant Director (HR, Legal and Democratic Services).
- 1.4 This Introduction of the Policy describes some of the controls operated by the Council. Next are General Rules for the use of the Council's Internet and e-mail services and some advice on the sensible use of internet services. We have then identified six areas where legal problems might arise for you and for the Council. These are harassment, defamation, copyright, entering contracts, pornography and confidential information.
- 1.5 Failure to comply with this Policy:
  - (a) may result in legal claims against you and the Council; and
  - (b) you may breach the Council's Code of Conduct; *leading to your being reported for a breach of the Code of Conduct*
- 1.6 The Council routinely monitors the level and route of e-mail and Internet traffic. Logs are kept on the system. These may be inspected at any time without notice where there is just cause for suspicion of misuse. If through routine monitoring the Council has grounds for suspecting a councillor of illegal or inappropriate e-mail or internet use, further investigations, including the examination of relevant computer files, records and personal e-mails, may be carried out. This will be conducted by Information and Communication Technology (ICT) staff but always subject to the individual member being advised that this action is to be taken.

- 1.7 The Council automatically monitors internet sites visited from the Council's network for inappropriate content. 'Inappropriate' includes, but is not limited to, material that is obscene, sexually explicit, pornographic, racist, defamatory, hateful, incites or depicts violence, describes techniques for criminal or terrorist acts and any other categories as determined from time to time by the HLDS. If it is found that such sites have been visited, the procedure described in 1.6 above will be followed.
- 1.8 The Council's systems are set up so that all external e-mail and files exchanged over the internet pass through the Council's 'firewall' and filtering software to prevent the spread of viruses and malicious software.
- 1.9 All e-mail and attachments are scanned for viruses and inappropriate content. If any are found the e-mail is withheld. A message to that effect is returned to the sender and, for incoming mail only, to the recipient. The e-mail Administrator in the ICT Unit is informed of any virus or inappropriate content.
- 1.10 It must be understood that e-mail is not secure and that no personal, confidential or sensitive material should be sent by e-mail without careful consideration. For example it is possible that technical staff may see isolated messages just as telephone engineers may overhear telephone calls, or a hacker may intercept an e-mail. Council staff are required to maintain the privacy and confidentiality of any message inadvertently viewed.

## **2. General rules**

- 2.1 The Council Internet and e-mail system is primarily for business use, but occasional and reasonable personal use is permitted. **However, you must not allow third parties to use the system.** Remember that misuse of council resources is a breach of the Code of Conduct.
- 2.2 Council-owned equipment, such as a laptop computer, or facilities, such as a St Edmundsbury email address, cannot be used for any party political purposes. If you do so, you could be breaching the Code of Conduct and could also cause the Council to breach the rules about not using resources to support political parties.
- 2.3 The use of web based e-mail services such as Microsoft Hotmail is prohibited, as this bypasses the Council's full security system. All e-mail should be sent/received using the corporate e-mail system.
- 2.4 For external e-mails, the Council System will automatically add a Council disclaimer. However, if you send a personal e-mail sign off the e-mail with the following statement:

***PERSONAL E-MAIL:*** *This e-mail is personal. It is not authorised by or sent on behalf of St Edmundsbury Borough Council. This e-mail is the personal responsibility of the sender.*

- 2.5 E-mails are not to be sent nor Internet pages accessed if the contents are likely to be illegal, could bring the Council into disrepute or could make the Council liable to action against it. Examples include but are not limited to material that is obscene, sexually explicit, pornographic, racist, defamatory, hateful, incites or depicts violence, describes techniques for criminal or terrorist acts, or otherwise represents values which are in the opinion of the Chief Executive Officer inappropriate to the Council's activities or could bring the Council into disrepute. **If it is justifiable in terms of legitimate Council business to access a website which could fall into any of the above categories, a member may do so, but is advised to notify their group leader or Assistant Director (HR, Legal and Democratic Services) of the reason for doing so.**
- 2.6 Sending viruses and hacking into any e-mails or computer systems of the Council or outside the Council are strictly prohibited and is illegal.
- 2.7 The Council's Internet or e-mail facilities must not be used for personal gain.
- 2.8 Take advice from ICT before using your council equipment to sign up to social media, such as Facebook or YouTube.
- 2.9 Keep all passwords secure and never write them down.
- 2.10 Access to another person's e-mail is only allowed with the authorisation of the owner or the ICT & eServices Manager.
- 2.11 Remember the Freedom of Information Act (FOI). All emails sent from or received by your council equipment are subject to FOI and will be provided to anyone making a relevant request for information under the Act. Ask yourself, before sending an e-mail, how you would feel if your message were read out in court. E-mail messages may have to be disclosed in litigation.
- 2.12 If your email contains information which could identify a living person, such as a name or address, this must not be disclosed without their prior consent, otherwise you will be **breaking the Data Protection Act**. Contact Legal Services if you need further advice.
- 2.13 Take care about the style you use, be friendly, businesslike and brief but not curt.
- 2.14 **Do not:**
- (a) impersonate any other person (such as using another's password) when using e-mail and do not alter messages received;
  - (b) attempt to bypass the Council's security controls;
  - (c) introduce software or any electronic media onto the Council's system without the prior permission of the ICT Unit. This includes software, shareware and freeware available on the Internet;

- (d) use **bold** or UPPERCASE lettering unnecessarily. This is known in e-mail terms as shouting;
- (e) create e-mail congestion by sending trivial messages or personal messages or by copying e-mails to those who do not need to see them. Do not engage in trivial banter;
- (f) misuse the 'Reply to all' button, or comprehensive distribution lists. The system becomes clogged with unnecessary items. Make sure only those who need to see them receive your messages;
- (g) send or forward chain letters of unsolicited mail (SPAM).

#### 2.15 **Do:**

- (a) use appropriate language. Emails tend to be more informal than printed letters but always have the reader in mind – sometimes a level of formality may be more appropriate;
- (b) obtain confirmation of receipt (e.g. asking the recipient to send an e-mail reply) for important e-mails sent. Don't rely on "view acknowledgements" as this is not supported on all e-mail systems;
- (c) keep copies of important e-mails received and delete unwanted e-mails regularly including emptying your deleted items folder;
- (d) check your e-mail regularly, at least once each working day;
- (e) make arrangements for your e-mail to be forwarded to, or accessed by, someone else in your absence. Use the 'Out of Office Assistant' under Tools in Outlook to inform senders and use it to make arrangements for your e-mail to be forwarded as appropriate;
- (f) reply promptly to all e-mail messages requiring a reply. Where a prompt detailed response is not possible, send a short e-mail acknowledging receipt and giving an estimate of when a detailed response will/should be sent;
- (g) acknowledge internet derived material in Council documents. See also Copyright below;
- (h) if you accidentally visit a site with inappropriate content or receive such e-mails, immediately inform the ICT Help Desk.

### **3. Problem areas**

#### **3.1 Harassment**

You could be held liable for harassment of fellow members, officers or the public if you send e-mails of a bullying or offensive nature. Such behaviour could also be a breach of the Code of Conduct.



### 3.2 **Defamation**

Inflammatory or derogatory messages sent through the internet can be held to be defamatory if the message is likely to be available to readers other than the person referred to and the recipient. A defamed party could personally sue the sender for large sums in damages.

### 3.3 **Copyright**

Copyright laws protect most material appearing on the internet and some attachments to e-mails. Both the employer and the employee could be liable under civil and criminal law for any unauthorised copying of those materials by the employee.

### 3.4 **Pornography**

Displaying on screen, printing or transmitting material with a sexual content could constitute criminal offences.

### 3.5 **Confidential information**

E-mails are not necessarily a secure way of sending information. Not only could it be embarrassing for the organisation if sensitive or confidential information of its own is publicly disclosed, but disclosure of a third party's confidential information, for example that of a client, could expose it to negligence actions and commercial risk. Members are reminded that disclosure of confidential information is a breach of the Code of Conduct.

### 3.6 **Freedom of Information**

Members will receive guidance on the Freedom of Information Act, including the recommended time limits for keeping e-mails before deletion.

### 3.7 **Amendments**

The Council may amend this Policy at any time and users will be notified of any changes made.

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## COUNCILLOR RECORDS MANAGEMENT POLICY

1. Everything produced by this Council could potentially end up in the public domain. Authors of documents and correspondence should take this into account. Therefore, all material produced should be both accurate and observe accepted standards of courtesy and respect.
2. Information is contained in documents, correspondence and other formats (such as audio tapes, notebooks or microfiche) either electronically or physically (such as on paper). Information kept in such a permanent form is subject to the Freedom of Information Act 2000. Therefore, the arrangements for keeping and deleting information in these formats must be managed.
3. No piece of information can be deleted once a Freedom of Information request has been received for that information *even if you know that someone else has it*. **This rule overrides all others**. You will be notified when a request is received and told how you are personally affected.
4. Subject to paragraph 3 above, all information should be kept for as long as *you* think you need it in your role of Councillor. However, if you have the *only* copy of any external information (for example, a letter to you from a constituent or an external body) which *you think* should form part of an official record, you should ask the relevant officer to put it in the Council's files.
5. For **internal documents** it is the originator who has to keep the original of the document or correspondence (subject to paragraph 4 above); recipients can deal with it as they see fit. This means that you do not need to keep anything sent to you by an officer. For **external documents** coming into the organisation (to officers or Councillors) it is the principal recipient who *may* need to keep the original of the document or correspondence (see paragraph 4 above). Other recipients can deal with it as they see fit. Please note that the provisions of this paragraph would be superseded by paragraph 3; if the document becomes subject to a Freedom of Information request, you must not destroy it, regardless of its status.
6. Drafts of reports or other matters cannot be requested under the Freedom of Information Act *whilst still in draft form*. It is good practice to clearly label drafts through file naming and / or watermarking in electronic documents or labelling of paper or other tangible formats. If you wish to keep drafts after completing a document, apply the tests in paragraphs three and four to them. Otherwise, destroy them on completion of the final version.
7. The Council is archiving and publishing all committee papers (agendas, reports and minutes for Councillor meetings) both electronically and in a central store at the Borough Offices. Therefore, Councillors will only need to apply the tests in paragraphs 3, 4 and 5 above when deciding whether or not to keep their own personal copies of committee papers.

8. Training will be available on how to use electronic tools for managing information more effectively, based on demand. Tools include: automatic delete of e-mails, archiving of e-mails, and reviewing tool on word documents, file structure and naming guidance.
9. Publishing information (documents and correspondence) on the website ([www.stedmundsbury.gov.uk](http://www.stedmundsbury.gov.uk)) or through the computers in the main receptions is encouraged and should become a regular occurrence. If you are repeatedly asked for the same information, ask where and how you could publish it to reach the target audience.
10. When a Member ceases to represent their ward they have a duty to hand back any information they have been holding on behalf of the Council in whatever format it is contained. If a Member retires, loses their seat at an election, or is disqualified they should arrange with the Council to return the information or have it collected within thirty days of ceasing to be a Member. If a Councillor is suspended following a Standards investigation, this policy continues to apply during the period of suspension. If a Councillor dies while in office, their executors, next of kin or representatives will be contacted at an appropriate time in order to arrange collection or disposal of any Council information held by the councillor.

## **PROTOCOL FOR DELEGATION OF RESPONSES TO CONSULTATION PAPERS**

### **1. Background**

The following is a protocol for use by Committees or Working Parties wishing to delegate authority for the response to a consultation paper, either to an officer, a Member or both. Responsibility will lie with the Chairman of the Committee or Working Party, together with the lead officer for the consultation under consideration, for ensuring that the protocol is followed.

### **2. Protocol for Delegation to Respond to Consultation**

- 2.1 All consultation responses issued in the name of the Borough Council must be in accordance with adopted Council policy, as well as any existing national or regional policy.
- 2.2 If there are views around the table which are contrary to such policies, Members should make individual, personal responses to the consultation.
- 2.3 If time permits, officers shall bring the draft response back to the next meeting of the committee/Working Party for approval before dispatch. If time does not permit, the Chairman will ensure that the delegation to respond is agreed by a clear resolution and subsequent vote, ie by a show of hands.
- 2.4 The Chairman shall ensure that s/he is confident that all Members of the committee/Working Party know what they are voting on, ie it is clear what the consultation response will include.
- 2.5 If the issue under consideration is particularly complicated, the committee/Working Party may feel that it will be necessary to include more of its number in the Members and officers delegated to approve the final response.
- 2.6 If there is an opposing view to that agreed by voting, the Chairman shall remind the committee or Working Party that there is a provision in the Constitution for a minority view to be expressed to the decision-making body.
- 2.7 Finally, if there is a wide divergence of views, the Chairman may wish to consider whether delegation is appropriate, and may wish to arrange an urgent meeting of the whole committee or panel to approve a response.

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*St Edmundsbury*  
BOROUGH COUNCIL

# Mayoralty Protocol

Last Updated: Council: 28 June 2016

# Mayoralty Protocol

This protocol provides guidance to the Mayor, Deputy Mayor and those staff involved in working alongside them to ensure correct procedures are followed in every aspect of the Mayoralty, and also to ensure that the Mayoralty Budgets are spent appropriately. This protocol should be read in conjunction with the job description of the Mayor as contained in Part 3, Responsibility for Functions, of the Constitution and is replicated in Appendix 4 of this document.

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# Mayoralty Protocol

## 1. Engagements

- 1.1 During the Mayoral Year the Mayor may be invited to, and undertake, up to 250 engagements. The motive for undertaking an engagement must be the consideration of promoting and rewarding the work and achievements of the people and Borough of St Edmundsbury, and therefore local engagements are considered a priority.
- 1.2 All requests for the attendance of the Mayor must be put in writing to the Mayor's Secretary, to allow for efficient co-ordination of the diary. A civic pro-forma will be forwarded to the host, as appropriate, once the engagement is accepted, to ensure the Mayor and his or her secretary will have all the information they need.
- 1.3 The Mayor's Secretary will liaise with the Mayor as to which engagements (in addition to those set out in Appendix 2) should be accepted, which must be appropriate for the Mayor of the Borough to attend and which will usually be in the following order:-
  - (a) Royal visits;
  - (b) Freedom events;
  - (c) Prestigious events which will promote the Borough;
  - (d) Prestigious events involving the Lord-Lieutenant;
  - (e) Significant local events;
  - (f) Attendance at Royal Garden Parties;
  - (g) Borough Council events;
  - (h) Cathedral events;
  - (i) Invitations from the military;
  - (j) Charity fundraising;
  - (k) Minor local events such as openings, fund raising events, social events etc (accepted in the order in which they are received);
  - (l) Events arranged by nearby local authorities (with the consent of the Mayor or Chairman of that Borough or District); and
  - (m) Other events outside of the Borough (with the consent of the Mayor or Chairman of that Borough or District).
- 1.4 Notwithstanding the above, the Mayor will need to balance civic priorities against the need to honour prior engagements where possible.
- 1.5 As part of the Council's Corporate Priority to promote the local economy, the Mayor may attend in an official capacity any function, the object of which is purely to secure publicity for some commercial venture, for example the opening of a shop or factory. The companies involved will be invited to make a donation towards the Mayor's Charity.
- 1.6 It is not appropriate, however, for the Mayor to attend in an official capacity any function which is considered by the Chief Executive, in consultation with the Leader of the Council, to be politically sensitive.

- 1.7 Appropriate risk assessments will be carried out to ensure that procedures are in place to ensure the safety of the Mayor and Deputy Mayor at all events. In addition, checks will be made that all permissions are in place, for example environmental health in the case of a food outlet, or outstanding planning issues in the case of new or refurbished premises.
- 1.8 A weekly engagement sheet is provided to the local press, MPs, Police, relevant councillors and officers and any other interested parties.

## **2. Twinning Invitations and Hosting**

- 2.1 St Edmundsbury has official "twinning" links with Kevelaer in Germany and Compiègne in France. It is also party to a Charter of Friendship with Huy in Belgium, and has friendly links with Ehringhausen in Germany.
- 2.2 The Mayor is periodically invited to attend civic ceremonial functions in the Borough's partner towns, and the Mayor is authorised to accept one such invitation during any municipal year.
- 2.3 The travelling, subsistence and accommodation costs of the Mayor and Mayoress/Mayor's Consort for any such visits are to be funded through the Mayor's personal allowance. If the Deputy Mayor is travelling **in place** of the Mayor, these same costs will be funded through the current Mayor's personal allowance. If the Deputy Mayor is travelling **with** the Mayor, these costs will be met by the Deputy Mayor him/herself. Any other Councillor or private individual taking part in the trip will meet his or her own expenses. The Mayor's civic budget is not to be used for trips abroad and there is not an expectation that all such invitations are accepted; modern forms of communication are encouraged (internet, skype, sharing of information, working with youth groups, schools and community groups through social media etc).
- 2.4 If the Mayor's Secretary, driver or any other Officer is required to accompany the Mayor on any trip as part of their normal work duties, his or her expenses will be met by the Borough Council. Approval from the Assistant Director (HR, Legal and Democratic Services) is to be sought before such expense is committed and will be given after consideration of the invitation, and the expense, in accordance with s1.3 and subject to funds being available in the civic budget.
- 2.5 The civic car and Mayor's Officer will only travel abroad with the Mayoral party if this would prove more cost-effective (taking into account all vehicle and officer costs) than travel by public transport or the accompanying officer's car. The cost of the civic car and Mayor's Officer in these circumstances will be met through the civic budget.
- 2.6 The Borough also has links with HMS Vengeance, the crew or representatives of which are periodically invited to civic events, funded from the civic budget.
- 2.7 The Mayor may on occasion invite the Mayor or other delegates from any of the Borough's twinned towns to visit St Edmundsbury but expenses for the visitors will not be paid after 1<sup>st</sup> April 2018; a contribution may be made to a small

reception or similar suitable event for such visitors, from the Mayor's personal allowance (s4.1 below).

### **3. Annual or Scheduled Civic Events**

3.1 Appendix 2 sets out annual civic events which are known in advance, and which have their own budget allocations. The Mayoralty budget allocations will provide for the administration of these events and attendance by the Mayor's Secretary, Mayor's Officer and/or Macebearers, as required, and for the following direct costs:-

- (a) **Annual Meeting of the Council** – PA system, floral decorations, staging, catering and printing/postage;
- (b) **Civic Dinner for the Outgoing Mayor** – table decorations, venue hire, PA system, catering, music and printing/postage;  
A list of complimentary invitations is agreed by the Mayor Advisory Committee. All other dinner invitations are covered by ticket sales.
- (c) **Civic Sunday** – venue hire, printing/postage and catering;
- (d) **Jankyn Smyth** – Cake, sherry and ale (which are part of the formal ceremony) and printing /postage;
- (e) **Battle of Britain Commemorations** – venue hire, PA system, catering, printing/postage, security, car park closures and floral decorations;
- (f) **Suffolk County Harvest Festival** – in conjunction with the Cathedral – venue hire, PA system, car park closures, catering (self financing through ticket sales) and printing/postage;
- (g) **Remembrance** – three events – venue hire, PA system, catering, floral decorations, security, road closure order, car park closures and printing/postage;
- (h) **St Edmund's Day Service** – Refreshments and printing/postage;
- (i) **Mayor's Christmas Carol Service** – Printing/postage and refreshments; and
- (j) **Mayor's Charity Ball** – venue hire, catering, room and table decorations, music and printing/postage, all of which are expected to be covered by ticket sales to the extent that a profit is made for the Mayor's charity.

3.2 The Mayoralty may also be required to arrange certain ad hoc civic events as part of the Civic Events Calendar for any particular year. These include Royal Visits, Freedom of the Borough Ceremonies, Magna Carta Celebrations (every 15 years) and certain national commemorations. Provision for these events is not included in normal Mayoralty budgets (see section 8). In addition to staff time, the events may require venue hire, catering, security, road closure orders, printing/postage and any other specific costs.

### **4. Civic Receptions and Hospitality**

4.1 The Mayor is entitled to host receptions and other hospitality events, funded from his or her personal allowance, so long as these are appropriate and contained within the budget (see below). The Mayor's Secretary will advise on the number and size of events which may be held throughout the year, what

refreshments should be provided etc. Examples of occasions when the Mayor may wish to initiate events or hospitality include:-

- (a) The Mayor's own charity events;
- (b) Events to promote local initiatives;
- (c) Events to recognise or pay tribute to outstanding achievements in the Borough;
- (d) Events to honour visits to the Borough by appropriate individuals or organisations;
- (e) Hospitality to mark significant local events or anniversaries; and
- (f) Reciprocation of civic hospitality previously extended to the Borough's representatives.

4.2 It is acknowledged that such occasions will arise as the year progresses, and so the Mayor's Secretary will ensure that the Mayor is kept informed of allocations against his or her personal allowance. As this allowance is limited, the Mayor should be wary of promising hospitality to any group or organisation without first discussing this with the Mayor's Secretary. Any hospitality provided from public funds should always stand up to public scrutiny, and therefore entertaining relatives, friends or political associates are essentially private arrangements for the Mayor, and Council budgets should not be used.

4.3 Any funds remaining at the end of the civic year will be used for the following year's Deputy Mayoral engagements.

4.4 Any further civic hospitality commitments outside the budget that the Mayor wishes to incur will be met by the Mayor personally.

4.5 The following protocol should be adopted when addressing civic dignitaries, depending upon attendance:  
*High Sheriff, Honorary Freemen, Members of the Council, Distinguished Guests, My Lord, Ladies and Gentlemen.*

## **5. Catering**

5.1 Any external catering required for civic events will be arranged through the Mayor's secretary. All catering requirements in the St Edmundsbury Public Halls will have to be prepared by Sodexo Prestige, as the in-house caterer.

## **6. The Role of the Deputy Mayor**

6.1 The Deputy Mayor will attend functions and events on behalf of the Mayor in the absence of the Mayor, but should not receive invitations directly. If the Deputy Mayor is invited to an event that the Mayor is attending, he or she attends as a Councillor and not as the Deputy. The exception to this is during all of the major civic events set out in Appendix 2, when the Deputy Mayor will attend with his or her regalia at the same time as the Mayor.

6.2 If neither the Mayor nor Deputy Mayor is available to attend an engagement, a former Mayor will be approached initially. If no former Mayor is available, the

most appropriate Member of the Council will be invited to attend the engagement (to be decided by the Mayor and Mayor's Secretary), and that Member will be provided with the Mayor's Consort's badge to be worn for the occasion.

- 6.3 When claiming travelling expenses the Deputy Mayor will need to distinguish between expenses incurred as Deputy Mayor, and expenses incurred as a Councillor, as they are funded from different budgets.

## **7. Equality and Diversity**

- 7.1 In accordance with Council policy, the Mayor will take into account the promotion of equality and diversity when deciding which engagements to accept or civic functions to hold, and will not accept invitations from or extend hospitality to organisations that unlawfully discriminate on the grounds of race, ethnic or national origin, religion, social background, gender, disability, age or sexuality.

## **8. Budget**

- 8.1 Details of the Mayoralty Budget are provided at Appendix 3.
- 8.2 Whilst it is important to uphold the dignity of the office of Mayor and to provide the necessary support for him or her to fulfil his or her role as expediently as possible, it would send the wrong message to the Council Tax payers of St Edmundsbury if the Mayoralty Budget was treated differently to any other Council budget. While minor variations are to be expected, for example the variations in travelling costs caused by the home address of the Mayor for the year, it is important that the Ceremonial and Mayoral Function Budget is not significantly overspent, except in very exceptional circumstances.
- 8.3 The Mayor's Secretary will monitor the budget situation on a monthly basis, and bring any issues of concern to the attention of his/her line manager and the Mayor. Significant variations will be reported through the Council's normal budget monitoring processes.
- 8.4 Significant commitments instigated by a service department will usually require support and contributions from the relevant budget. Similarly, separate budget provision should be made for any additional one-off major civic events, such as Royal visits or significant national events, not included in the normal Civic Events Calendar. Where a budgetary growth bid or supplementary estimate is required, this must cover direct costs (eg venue hire), the cost of the Mayor's Officer's attendance and the work of the Mayor's Secretary in arranging and attending the event. Alternatively, if a supplementary estimate is not considered appropriate, it will need to be recognised corporately that such events will cause the budget to be over-spent.

## **9. The Civic Car and Mayor's Officer**

- 9.1 The Mayor has access to the civic car, driven by the Mayor's Officer, which will collect him or her from home, take him or her to a function, and return him or her home afterwards. It is necessary, however, to bear in mind that these resources are finite. The Mayor's Officer, like the Mayor's Secretary, works on an annualised hours basis, to enable more hours to be worked during busy times and less during quieter periods. The Mayor's Secretary will schedule the use of the car and the hours of the Mayor's Officer, and discuss with the Mayor which functions should be prioritised for use of the civic car and attendance of the Mayor's Officer, and advise the Mayor if there are any issues of concern. As explained in section 8, additional budgetary provision may be required for one-off special events.
- 9.2 The civic car may not be used for private use or for attending business as an ordinary Member of the Council.

## **10. The Civic Insignia**

- 10.1 The Mayor will wear a robe of office, together with a chain and badge of office, on all formal ceremonial occasions. If the ceremony is out of doors, the Mayor will wear a hat, which in the case of a man is a black cocked hat and for a lady a black tricorne hat. On normal day to day civic occasions, the Mayor will wear only the chain and badge of office with formal clothing suited to the occasion. The Mayor is expected to wear the robe and chain of office for Council meetings. The Mayoress or Mayor's Consort will be provided with a badge of office to be worn as appropriate.
- 10.2 The Mayor's Officer is responsible for the Mayor's robes and chain of office, and will assist the Mayor, Deputy Mayor, Mayoress or Mayor's Consort in dressing on each occasion.
- 10.3 If the Mayor accepts an invitation to attend a function in another local authority's area, it is courtesy to seek the consent of the Mayor or Chairman of that local authority to wear the chain of office if this is required. Similarly, if the Mayor or Deputy Mayor is to attend any event organised by a Town Council, the consent of the Mayor of that Town to wear the chain of office should be sought.

## **11. Civic Gifts**

- 11.1 It is common practice for the Mayor and Deputy Mayor to be given gifts when attending major external functions in their official capacity. Gifts are also often exchanged when delegates visit St Edmundsbury. It is custom and practice that the Mayor or Deputy Mayor receive such gifts on behalf of the Borough Council, and that they are forwarded to the Mayor's Secretary for entry on the civic inventory and displayed as appropriate.
- 11.2 Small gifts, such as badges or pens which are clearly indicated as a personal gift for the Mayor or Deputy Mayor, may be kept. The Mayor and Deputy Mayor

should have regard to the Code of Conduct for Councillors found in Part 5 of the Council's Constitution when deciding whether to receive and keep such gifts, and should ensure that they are recorded in the hospitality register as required by the Code.

- 11.3 A small budget is available to the Mayor for the purchase of gifts for visiting dignitaries, or to exchange on an external visit, and the Mayor's Secretary will advise on appropriate gifts, which may be as follows:-
- (a) Visiting dignitaries - a Borough wooden shield or paperweight;
  - (b) Twinning visits - a clock, or other suitable item, engraved with the Borough crest;
  - (c) Presentations – a glass paperweight, crystal bowl, china plate etc bearing an inscription; and
  - (d) Small gifts for local organisations or youth visitors etc – badges, pens, Borough literature etc.
- 11.4 When selecting appropriate gifts the Mayor and Mayor's Secretary should bear in mind the occasion, knowledge of gifts offered or received previously, current trends etc, and ensure that the dignity of the occasion and/or the contribution of the recipient is properly reflected.

## **12. Meetings of full Council**

- 12.1 It is part of the Mayor's duties to chair meetings of the full Council, and his or her role is defined in Part 2, Article 5 and further in Part 4, Council Procedure Rules the Council's Constitution. In presiding over the full Council, the Mayor will uphold and promote the purposes of the Constitution and interpret the rules of procedure, and the decision of the Mayor about the meaning or use of any of the rules, or about any proceedings of the Council, is final and may not be challenged. If invited to do so by the Mayor, the Chief Executive will advise the Mayor on procedural matters at full Council, and will brief the Mayor in advance of the meeting if so requested. If the Mayor is unavailable the Deputy Mayor will chair the meeting.

## **13. Outside Bodies**

- 13.1 It is usual for the Mayor to become President of the two Twinning Associations of Kevelaer and Compiègne. Additionally, the Mayoress or Mayor's Consort is invited to take the position of President of the Womens' Guild of Friends.

**Guidance for the Mayor and Deputy Mayor**

Serving as Mayor of the Borough of St Edmundsbury is an honour. However, that honour will have a substantial impact on your life for the coming year, including your family and friends and potentially your employment. The following guidance is intended to assist you as you embark on your Mayoral Year, and whilst it cannot cover every possible issue or subject, it will hopefully answer many of your questions.

The Mayor's Secretary and Mayor's Officer are also available to assist you throughout your year in office, please do not hesitate to ask for advice and guidance.

**1. Preparation for the Mayoral Year**

- 1.1 Nominations for Mayor and Deputy Mayor are made in January/February each year, so you will have some time to prepare for your role in the year ahead, which will commence at the Annual Meeting of the Council in May. With support and preparation you will be able to take up your duties as Mayor with confidence, and be as informed as possible about what to expect.
- 1.2 The Mayor's Secretary will discuss with you at the beginning of your year in office whether you feel you have any training needs, for example media training, public speaking or chairing meetings, and make the necessary arrangements.
- 1.3 A meeting will also be arranged with the Assistant Director (HR, Legal and Democratic Services) before you take up office, to discuss your mayoral year and your choice of charities.

**2. The Deputy Mayor**

- 2.1 The Deputy Mayor will be there to support you throughout your year in office.
- 2.2 The main body of this document advises on when it is appropriate for the Deputy Mayor to deputise for you.

**3. The Mayoress or Mayor's Consort**

- 3.1 It is usual for Mayors to identify the person who will accompany them to all or most of the civic and social activities which they attend in their official capacity as Mayor. The choice of companion is entirely at the Mayor's discretion. A Mayor's female companion is designated Mayoress, while a Mayor's male companion is designated as the Mayor's consort.
- 3.2 Your Mayoress or Consort will have a responsibility throughout the year to assist you in representing the Borough of St Edmundsbury, although may not attend events in their own right, and you should ensure that he or she is well informed about engagements and protocol.



3.3 The Deputy Mayor will identify a Deputy Mayoress or a Deputy Mayor's Consort.

#### **4. Your Role as a Councillor**

4.1 As St Edmundsbury's "First Citizen", the Mayor acts as ambassador for the Borough Council and for the Borough itself, and by being an impartial figure he or she can represent the whole community, regardless of differences. Whilst it is necessary for the Mayor and Deputy Mayor to adopt a non-political stance during their year in office, this should be balanced against their responsibility as a Councillor to promote the Council's corporate priorities.

#### **5. Support Officers**

5.1 You will already be aware that the Council's officers are an invaluable source of information, advice and guidance. Prior to taking office you will have the opportunity to speak to the Mayor's Secretary, who will administer the detail of your activities, including maintaining your diary and dealing with correspondence. The Mayor's Secretary should be your first point of contact throughout the year, and will ensure you get the information you need in a timely manner, from the appropriate officers.

5.2 You should meet with the Mayor's Secretary regularly to discuss issues, engagements, diary commitments and correspondence, and it is important that you do not accept any "verbal" engagements or commit yourself to an engagement. Always advise people to contact the Mayoral Office.

5.3 The Mayor's Secretary will also assist you in writing appropriate speeches for events attended. It will be for you to decide whether you would like a full speech drafted, or simply an outline of issues to be addressed.

5.4 At major civic events you will be attended throughout the event by the Mayor's Officer, whose role is to guide and advise you. He will also act as chauffeur when the civic car is required.

#### **6. Diary Dates**

6.1 As the Mayor is expected to be in a position to accept 95% of the 250+ engagements to which he or she will be invited throughout the year, many of which will be during the daytime, it is a good idea to reserve dates for your personal occasions at the beginning of your Mayoral year to prevent official engagements taking over, and you should also book time for a week or two of holidays, in consultation with your Deputy Mayor. You will of course be informed of key dates which you are required to attend as set out in Appendix 2.

## **7. The Mayor's Chaplain**

- 7.1 It is traditional for the Mayor to appoint a Chaplain for his or her year in office, who will offer spiritual guidance to the Mayor, say prayers at full Council meetings and attend major civic functions and dinners where he or she will be expected to say grace.
- 7.2 The Mayor's Chaplain will also preside at the Mayor's Civic Service and Carol Service.

## **8. The Mayor's Charity**

- 8.1 You will need to give some consideration as to which charity or charities you wish to adopt. The choice is left to your discretion, but tends to be a locally based charity. Alternatively it could be the local branch of a national charity, the aims and objectives of which are consistent with the Borough Council's policy framework, or which is carrying out a particular project to benefit the Borough.
- 8.2 The Mayor's charity benefits from the money raised at the Mayor's Charity Ball and raffle. The collections from the Mayor's Civic Service and Christmas Carol Service will be equally divided between the Mayor's charity and the church of the Mayor's Chaplain. Other charity fundraising events held throughout the year will be at the Mayor's discretion, and funded through the Mayor's allowance.

## **9. Official Photographs**

- 9.1 After taking up office, official photographs will be taken for display in the Borough Offices, funded from the Mayor's allowance. If you wish to have any copies of the official photograph for your own use and distribution, these must be personally funded.

## **10. Biographical Details**

- 10.1 Before you take up office, the Mayor's Secretary will work with you to produce a short biography, as organisations who invite you to events often request one. This will include details of your career, family, interests etc.

## **11. The Mayor's Allowance**

- 11.1 The Mayor's personal allowance is intended to be recompense for the expenses of maintaining the dignity of the office of Mayor, and the types of expenditure which the Borough expects the allowance to cover include:-
- (a) Clothing;
  - (b) Mayoress's/Consort's Clothing and expenses;
  - (c) Travel (except when the civic car is used for authorised engagements);

- (d) Telephone calls and postage undertaken outside the Mayor's office;
- (e) Tickets to events hosted by other Councils;
- (f) Expenses associated with the Mayor's own charity events and all expenses associated with twinning;
- (g) The Mayor's tickets to his/her own charity events and the Mayor's Charity Ball;
- (h) Donations, raffle tickets and prizes etc;
- (i) Civic Christmas Cards to recipients not on the official list;
- (j) Sending flowers; and
- (k) Personal hospitality.

- 11.2 Should the Mayor incur any refundable expenses during the year, these can be refunded direct to your bank account if you have a receipt for the item. If you are unclear whether an expenses may be refunded, the Mayor's Secretary will be happy to advise.
- 11.3 Should you incur a reasonable expense for which you do not have a receipt, for example raffle tickets purchased at an engagement, or a donation during a church event, these may be refunded via a signed petty cash slip, which will be provided by the Mayor's Secretary.
- 11.4 Any unused balance in this account at year end is moved to the Mayoralty Section balances.

## **12. Clothing**

- 12.1 You should give some thought to the clothes you will need, bearing in mind the weight of the Chain of Office. As Mayor of the Borough your dress should be formal at most engagements you attend. The chain of office will be pinned to your jacket, or alternatively you may choose to have loops fitted on to the shoulders of your jackets, in order to hold the chain in place. Part of your Mayor's Allowance is intended to be used for the purchase of some clothes during your year in office.

## **CIVIC EVENTS CALENDAR**

**(3<sup>rd</sup> Thursday) May**

Mayor Making/Annual Council Meeting/Dinner at the Corn Exchange

**(Sunday tba) June**

Civic Sunday (at Mayor's Parish Church)

**(3<sup>rd</sup> Thursday) June**

Jankyn Smyth – Cake and Ale Ceremony, Guildhall

**Sunday (nearest 14<sup>th</sup>) September**

Battle of Britain Commemorations, St Mary's Church and Athenaeum

**(2<sup>nd</sup> Sunday) October**

Suffolk County Harvest Festival, St Edmundsbury Cathedral and Athenaeum

**11<sup>th</sup> November**

Remembrance Day - 2 minutes Silence and Service at the War Memorial, Angel Hill

**Saturday (nearest 11<sup>th</sup>) November**

Remembrance Services in the Abbey Gardens, Bury St Edmunds

**Sunday (nearest 11<sup>th</sup>) November**

Remembrance Sunday Services and Parades  
St Mary's Bury St Edmunds (morning) & St Mary's Haverhill (afternoon)

**(2<sup>nd</sup> Sunday) November?**

St Edmunds Day Service, St Edmunds Church

**(2<sup>nd</sup> Sunday tba) December**

Mayor's Christmas Carol Service

**(historically) 31<sup>st</sup> December**

Mayor's Charity Ball, Corn Exchange

## APPENDIX 3

**The total allowance for the Mayoralty Service in the Budget Book is £115,493. However the following table shows the budgets directly within the control of the Mayor's Secretary and subject to this protocol.**

### Mayor's Office Budget for Year 2016-17

<b>Cost Centre 1131</b>	<b>Mayor's Office</b>	<b>Budget for Year</b>
R1000-R1402	Salaries*	£53,726.00
R3000-R3500	Cost of Mayoral Car	£2,505.00
R4001	Tools & Equipment - Hire	£3,970.00
R4100	Catering	£12,310.00
R4300	External Printing	£1,500.00
R4507	Mobile Phone Call Charges	£100.00
R4553	Public/Civic Functions	£14,100.00
R4554	Civic Regalia & Insignia	£970.00
R4555	Mayor's/Chairman's Allowance	£4,300.00
R9206	Sales - Tickets	£-4,000.00
	<b>Total</b>	<b><u>£89,481.00</u></b>

*\*Includes all employer on-costs (pension, NI etc.)*

### Budgeting for Other Annual Civic Events:

Freedom Ceremonies	Growth bids made as necessary for these one-off events, with some costs being met from Special Event Expenses
St Edmund's Day Service	Funded from general budgets for refreshments, macebearers, etc
Mayor's Christmas Carol Service	Funded from general budgets for refreshments, macebearers, etc
Mayor's Charity Ball	Self financing from ticket sales

## **Mayor's Role**

### **Taken from Part 2: Article 5 – 'Chairing the Council' of the Council's Constitution**

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

The Mayor and Deputy Mayor will be elected annually by the Council.

Neither the Mayor nor Deputy Mayor may be a member of the Cabinet.

The Mayor and in his/her absence the Deputy Mayor have the following roles.

#### **5.2 Procedural role**

The Mayor will:-

- a) chair meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- b) uphold and promote the purposes of the constitution and interpret the rules of procedure at Council meetings;
- c) 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) exercise a casting vote in the event of a tie at a Council meeting with complete freedom of conscience.

#### **5.3 Civic and ceremonial role**

The Mayor is the ceremonial head of the Council and will be its representative at civic and ceremonial events. He/she maintains an apolitical stance, especially when chairing Council meetings. This part of the role includes:-

- a) representing and promoting the whole borough during his/her term of office;
- b) enhancing the image of the borough;
- c) encouraging understanding of the Council's role, priorities and partnerships
- d) promoting public involvement in the Council's activities.

Appendix 4 Last Updated: March 2015



*St Edmundsbury*  
BOROUGH COUNCIL

## **Freedom of the Borough - Protocol**

### **Background**

The medieval term 'freeman' traditionally meant someone who was not the property of a feudal lord, but enjoyed privileges such as the right to earn money and own land. Town dwellers who were protected by the charter of their town or city were often free - hence the term 'freedom of the city'.

The conferment of the Honorary Freedom of a borough or city has been established since 1885 as the highest honour which the local authority can bestow. Historically, it had not always been treated with such reverence. Until the Municipal Corporations Act of 1835 put an end to the practice, it had been possible to appoint honorary freemen for less noble reasons, not least of which might have been the future disposition of their vote at elections.

To be granted the title of Honorary Freeman is a mark of distinction upon the person whom the Council wishes to honour. The Freedom itself carries no privilege and is purely an honour, reflecting the eminence of the person on whom it is conferred or as recognition of significant and valuable services rendered to the city or borough by that person. It is normally an honour or award to men or women of note who have lived or worked in the city/borough, and who are proud to be a part of the city/borough's history by becoming freemen or in the case of HM Services Units, Freedom of the Borough. It should not be awarded to serving councillors.

### **What criteria is to be used to award this status?**

The overriding principle is that these awards should be made on merit, defined as:

- Achievement
- Exceptional Service

Awards should not be for a job well done or because someone has reached a particular level. They should be awarded because an individual has 'gone the extra mile' in the contribution they have made or stand out 'head and shoulders' above others in what has been achieved.

To be considered, the nominee should meet at least two of the following criteria:

- delivered in a way that has brought distinction to borough life and enhanced the borough's reputation in the area or activity concerned
- contributed in a way to improve the lives of those less able to help themselves
- demonstrated innovation and entrepreneurship which is delivering results in the borough

As this is the highest honour that a borough council can grant it should be used sparingly and should not be given too often in order to preserve its status and value.

The title of Honorary Freeman does not give any rights but it is hoped that person would support the Office of Mayor at civic functions.

The awarding of the Freedom of the Borough to Service Units 'to march through the streets of the borough with bayonets fixed, drums beating and Colours flying' is really an empty grant. The practice has been generally accepted and provides a dignified and satisfactory means of enabling a city or borough to honour a distinguished unit of Her Majesty's forces.

### **The Process**

The recommendation to confer the status of Freeman is made by Group Leaders and the Mayor, following nomination by any elected member.

For candidates to be considered they must be able to demonstrate a strong and continuing connection with, and commitment to, the borough or have made a major contribution to national life and in doing so, have enhanced the reputation of the borough.

To assist it is suggested that this could include the following:

- Artistic and cultural endeavours
- Business, economic growth and prosperity
- Charitable work
- Improvement to the built and natural environment
- Religious and spiritual life
- Sports activities
- Civic service

Only in exceptional circumstances should consideration be given to the admission of organisations.

### **The Procedure**

The Democratic Renewal Working Party (subsequently approved by Council) has agreed the following procedure.

Nominations for persons or organisations to be granted Freedom of the Borough, may be made by any serving Member of the Council to the Assistant Director (HR, Legal & Democratic Services) on the appropriate form (see Appendix A). Each nomination must contain the support of at least 10 Members of the Council and where appropriate, the Member should first raise the matter for discussion within their political group.

The Assistant Director (HR, Legal & Democratic Services) will check that sufficient information has been provided on the form and will then pass the nomination to the Leader for consideration.



The Group Leaders and the Mayor will meet (or discuss by email) to consider the nomination against the criteria. Having reached a majority agreement, they will make a recommendation to Council that the honour is bestowed. Alternatively the majority may decide that the nomination is not suitable as it does not meet the criteria.

In the event that the Group Leaders and Mayor are evenly divided in opinion on the proposed nomination, the Leader of the Council shall have the deciding vote on whether to make a recommendation to Council (or not).

The Leader shall report to Council and, should Council accept the nomination, a Special Meeting of Council would then be called to pass the resolution pursuant to Section 249 of the Local Government Act 1972, for the admission as Honorary Freemen of the Borough of the relevant persons.

### **The Ceremony**

The ceremony for the admitting of an Honorary Freeman is to be a very formal occasion. Section 249 of the Local Government Act 1972 (sub section 5) deals with the admission to the Freedom of the Borough by Borough or City Councils of *'persons of distinction and persons who have in the opinion of the Council, rendered eminent services to the Borough'*.

The Act provides that a special meeting of the Council (made public five days prior to the meeting) must be convened with the specific object of passing the resolution to Honorary Freedom - one of the highest honours that the Borough Council can bestow. This will take place on the same date as the Annual Council meeting when possible.

The resolution should recite the grounds upon which the recommendation is being made, and details of the public services rendered by the recipient should be included. The resolution must be passed by not less than two thirds of the Members present.

The procedure should be carried out with the utmost formality and the Honorary Freeman Elect is invited and should attend the Council Meeting and be placed on the right hand of the Mayor.

After the passing of the resolution, the newly admitted Freeman (or representative of the organisation being admitted) should take the appropriate Freeman's Oath and sign the Freeman's Roll, his/her signature being witnessed by the Mayor and the Chief Executive or nominated Officer.

A sealed and illuminated certificate of the grant of Honorary Freedom, containing a copy of the formal resolution, should then be presented to the newly appointed Honorary Freeman by the Mayor with a Freedom of the Borough medal, with an opportunity being given for the recipient to reply.

After the formal proceedings come to an end, it is usual to close the meeting and adjourn for a reception. This gives an opportunity for the invited guests to offer their congratulations to the newly appointed Honorary Freeman.



**APPENDIX A**

NOMINATION FORM FOR FREEDOM OF THE BOROUGH.

I Councillor ..... wish to nominate the following person (organisation) to be considered for the status of Freedom of the Borough of St. Edmundsbury Borough Council.

Nominee.....

I am aware that the following criteria needs to be applied to the achievements of the nominee.

They have:

- delivered in a way that has brought distinction to borough life and enhanced the borough's reputation in the area or activity concerned
- contributed in a way to improve the lives of those less able to help themselves
- demonstrated innovation and entrepreneurship which is delivering results in the borough.

I believe that they have met these criteria in the following way:

Please continue overleaf or attach supporting evidence.

We the undersigned Councillors support this nomination for Freedom of the Borough:

1.	6.
2.	7.
3.	8.
4.	9.
5.	10.

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Forest Heath  
District Council

## OVERVIEW AND SCRUTINY COMMITTEE CALL-IN REQUEST FORM



St Edmundsbury  
BOROUGH COUNCIL

To: **Assistant Director (HR, Legal and Democratic Services)**

I would like to call-in the decision as detailed below:

**Decision making body (Cabinet or Portfolio Holder)**

**Date decision made:**

**What was the Decision made by Cabinet or Portfolio Holder:**

**If the reason for the call-in is that the decision was outside the Budget and Policy Framework Procedure Rules, please give an explanation**

**What action would you like to see the Cabinet / Portfolio Holder take to address the concerns outlined in the call-in, or what needs to be done to strengthen their decision?**

**At what stage did you inform the Portfolio Holder or the Leader of the Council that you had concerns over this planned decision? If not a planned decision (that is if the decision did not appear on the Decisions Plan), what attempts did you make to speak to the Portfolio Holder before calling in the decision?**

**Please state which of the principles for decision making set out in Article 12 of the Constitution has/have been breached (please tick)**

		<b>TICK</b>
1	The decision was not reasonable within the common meaning of the word, ie it was not a rational decision based on sound judgement.	
2	The decision was not reasonable within the legal meaning of "reasonableness", ie all relevant considerations were not fully taken into account in reaching the decision and all irrelevant ones disregarded.	
3	In the case of 'quasi-judicial' decisions (ie a decision as to whether or not to grant a licence) a fair hearing was not conducted in accordance with the rules of natural justice to the person who was the subject of the decision.	
4	The decision was not proportionate (ie the action was not proportionate to the desired outcome).	
5	The decision was not taken on the basis of due consultation and professional advice from officers.	
6	Human rights were not respected and consideration was not given as to whether the decision would give rise to any implications under the Human Rights Act 1998 and the European Convention on Human Rights.	
7	The decision was not taken in compliance with Council's schemes of delegation, financial rules and instructions relating to contracts.	
8	When making the decision, a presumption in favour of openness was not applied and a clarity of aims and desired outcomes was not displayed.	
9	Careful consideration was not given as to whether there was an interest that should have been declared;	
10	In the case of an executive decision 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 was not made together with a record of the reasons for the decision, details of any alternative options considered and rejected and any conflicts of interest.	

**Referring to the box(es) ticked above, please explain how the principles set out in Article 12 of the Constitution have not been met, and provide documentation or evidence, where appropriate to support the call-in:**

**Suggested Witnesses (Internal/External) to be invited and their relevance to the call-in**

**Members calling in the decision** (Call-in to be requested by any five members of the Council)

	<b>Name of Councillor</b>	<b>Signed</b>	<b>Will you be attending the call-in meeting?</b>
1	(Lead on Call-in)		
2			
3			
4			
5			

Once completed, either by hand or electronically, please send to the Assistant Director (HR, Legal and Democratic Services) **BY 5PM ON THE DEADLINE DATE PUBLISHED ON THE CABINET DECISION NOTICE**, otherwise the call-in will not be valid.

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## **OVERVIEW AND SCRUTINY COMMITTEE**

### **TASK AND FINISH GROUP PROTOCOL**

- 1) A Task and Finish Group will be appointed by the Overview and Scrutiny Committee as an informal Member Group set up for the purpose of researching ad-hoc issues relating to policy development or scrutiny. It will consist of:
  - a) 3-5 elected members reflecting broad political balance, where possible, and appointed on the basis of their relevant knowledge and interest. *(Membership of a Task and Finish Group is not restricted to only Overview and Scrutiny members);* and
  - b) A number of co-opted partners/community representatives and members appointed because of their specialist knowledge/and or expertise. *Co-opted members will be "non-voting" members of the Task and Finish Group.*
- 2) The Overview and Scrutiny Committee will set the framing terms of reference of the Task and Finish Group; the issue to be researched and the reasons; timescales to be agreed at the outset by the Overview and Scrutiny Committee giving a remit suitable to guide the actions of a short-term Task and Finish Group.
- 3) The Task and Finish Group will commence by producing an outline scope/project plan/work plan, including planned meetings to link effectively with scheduled Overview and Scrutiny meetings and involve relevant Cabinet Members on Policy Development research.
- 4) The Task and Finish Group will update the Overview and Scrutiny Committee as necessary to deliver the project plan and make recommendations to the Overview and Scrutiny Committee and produce a final written report. This will be presented to the Overview and Scrutiny Committee as a basis for further discussion and development. The report will document the Task and Finish Groups findings; evidence and recommendations; including, if appropriate, alternative views discussed and considered.
- 5) There is no requirement to meet in public or give five days notice of meetings as this is an informal group. As such no formal minutes will be produced, only bullet point notes, not for publication. Meetings to be attended by the Scrutiny Officer and additional officers may be requested to attend for professional support and guidance in the service area being researched.

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## **(Forest Heath District Council & St Edmundsbury Borough Council)**

### **Councillor Call for Action Protocol**

#### **1. Introduction**

- 1.1 The "Councillor Call for Action" (CCfA) was introduced under Section 119 of the Local Government and Public Involvement in Health Act 2007 (the Act), and came into force on 1 April 2009. *The statutory requirement to implement CCfA by 1 April 2009 applies to all councils in England (with the exception of parish councils) regardless of their Executive arrangements.*
- 1.2 The Act enables any member of the Council to refer to the Overview and Scrutiny Committee any **local government matter** or any **crime and disorder matter** which affects their ward/division.<sup>1</sup>
- 1.3 The power to refer a matter is available only where the matter is of direct concern to the ward or division which the councillor represents. A councillor can refer a matter even if no citizen has asked him/her to consider it, and there is no requirement for councillors in multi-member wards to agree – any of them can refer a matter.

#### **2. Limitations**

- 2.1 It is important to recognise that CCfA is not guaranteed to solve a given problem. CCfA can provide a method for discussing such problems and, through discussion, trying to overcome them.

#### **3. Issues excluded from referral as a CCfA**

- 3.1 The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 excludes the following matters from referral as a CCfA:
- Individual complaints concerning personal grievances or commercial issues.
  - Any matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman), for example:
    - Planning and licensing applications and appeals
    - Council Tax/Housing Benefits complaints and queries
    - Issues currently under dispute in a court of law
  - Any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee or any of its sub-committees.<sup>2</sup>
- 3.2 A referral, provided it is not an excluded matter (see above); will ensure that the matter is included on the agenda of the Overview and Scrutiny Committee. It is then

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<sup>1</sup> For definition of a local government matter and a local crime and disorder matter please see explanatory notes pages at Appendix 3.

<sup>2</sup> For definition of vexatious and discriminatory matters please see explanatory notes pages at Appendix 3.

up to the members of the Committee to decide whether or not to take the matter further.

3.3 A referral made to the Overview and Scrutiny Committee is seen as being at the end of the CCfA process (**the last resort**) and not the first step.

#### **4. Steps to be taken, prior to making a Councillor Call for Action referral**

4.1 Prior to a councillor referring a matter as a CCfA to the Overview and Scrutiny Committee, a councillor **must** have tried to resolve the issue/problem themselves using all mechanisms and resources available to them at ward level. Councillors should:

- If a local crime and disorder matter, raise the issue through the Community Safety Partnership to find a way to resolve the issue.
- Ensure that all relevant partner organisations have been informed of the issue and given enough time to resolve the issue, for example through formal letters written on behalf of constituents, discussion at public meetings, petitions, communication with local MPs and councillors in other authorities etc.
- Ensure that all relevant internal potential routes to solution have been followed, for example informal discussions with officers and/or members, questions at committees, motions on the agenda at full Council etc.
- Ensure that this is not an issue that is currently being or should be pursued via the Council's complaints procedure.
- Ascertain whether or not any other form of local scrutiny is investigating the issue, eg Suffolk County Council.

#### **5. How to make a Councillor Call for Action referral**

5.1 If the issue/problem is still not resolved the councillor can refer it to the Overview and Scrutiny Committee as a "Councillor Call for Action". To do this the councillor should complete and submit to the Scrutiny Officer a CCfA Request Form outlining what the issue is and what steps have been taken towards a resolution. The request form is attached as Appendix 1, is available on the Council's Intranet, or from the Scrutiny Officer. The request form for a CCfA includes:

- The name of the councillor and ward they represent.
- Title of the CCfA and date of submission.
- A brief synopsis of what the main areas of concern are?
- Which organisations have been contacted in trying to resolve the issue.
- Responses received from those organisations.
- Whether the Committee has considered a similar issue recently, and how this issue differs from that?

- Whether the issue should be considered through the Council's Complaints Procedure?
- Whether the issue relates to a quasi-judicial matter such as development control or licensing?
- Whether a similar or related issue is the subject of a review on the current work programme?
- Whether the issue is currently being looked at by another form of local scrutiny?
- The potential for scrutiny of the issue to produce real improvements?
- Whether the CCfA is currently the subject of legal action by any party (to your knowledge) or is being examined by a formal complaints process.
- Whether there are any deadlines associated with the CCfA of which the Overview and Scrutiny Committee needs to be aware?

5.2 Members are required to produce all their evidence regarding actions already taken in relation to the issue, and responses received from organisations contacted, at the time of submitting the CCfA Request Form.

5.3 The Scrutiny Officer will receive the referral form either by post or electronically, log it to track its progress, and, with the advice of the Service Manager (Shared Legal), assess the issue to ensure that it is not a matter excluded from referral to the Overview and Scrutiny Committee.

5.4 The Service Manager (Shared Legal) will, if necessary, advise the Member that more evidence should be added in any section of the CCfA submission, although it will be the decision of the referring Councillor as to whether he or she chooses to provide more evidence, or wishes to submit the form in its original state.

5.5 The Scrutiny Officer will inform the Chairman of the Overview and Scrutiny Committee that the item will be included on the next Committee agenda. The councillor will be informed whether or not their referral has been successful.

5.6 A successful referral will ensure that the CCfA will be placed on the next agenda of the Overview and Scrutiny Committee. It is then up to the members of the Committee to decide whether or not to take the matter further.

## **6. Decision of the Committee whether to take the matter further**

6.1 In deciding whether or not to take the matter further the Committee will consider:

- Anything that the councillor has done in relation to this matter; and
- Representations made by the councillor as to why the Committee should take the matter up. (Councillors have the option of either presenting their CCfA form without supporting papers, or by preparing a report setting out their views. Any reports prepared by councillors would be circulated, along with the agenda and other

reports for the meeting). *This information will need to take account of the disclosures of exempt information as prescribed in Part 1 of Schedule 12A of the Local Government Act 1972.*

6.2 The criteria the Committee will use to decide whether or not to take the matter further include:

- Is the Committee satisfied that all reasonable attempts have been made to resolve the issue by the ward councillor? And do the responses received by the referring councillor demonstrate that the matter is not being progressed?
- Has the Committee considered a similar issue recently – if yes had the circumstances or evidence changed?
- Is there a similar or related issue which is the subject of a review on the current work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing. Relevant time pressures on resolving the CCfA should be taken into account.
- Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the councillor received?
- Is this a case that is being or should be pursued via the Council’s corporate complaints procedure?
- Is it relating to a “quasi-judicial” matter or decision such as planning or licensing?
- Is the issue part of an individual’s own personal agenda (an issue of genuine local concern should have an impact on the local community).
- Is this an issue currently being looked at by another form of local scrutiny, e.g. Suffolk County Council?
- And, as with all scrutiny, does the matter referred have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the referring member’s ward?

6.3 In considering the CCfA, the Overview and Scrutiny Committee may invite the relevant Portfolio Holder, Chief Executive, Director, Assistant Director or external organisation to discuss the issue with the Overview and Scrutiny Committee and answer any questions.

6.4 If the committee decides not to accept the CCfA referral it must inform the councillor and provide reasons.

6.5 If the Committee decides to accept the CCfA referral, it must decide how it intends to take the matter forward and include the CCfA in its work programme. This could include:

**Before holding a formal hearing:**

- A meeting taking place between the Chairman and Vice-Chairman of the Overview and Scrutiny Committee, relevant officers, Scrutiny Officer, Assistant Director (HR, Legal and Democratic Services), Services Manager (Shared Legal) and the Member

submitting the CCfA at which a definitive list of witnesses for the CCfA hearing will be drawn up together with question plans for each witness as appropriate.

- Asking the service area(s)/partner organisation(s) to respond to the CCfA.
- Setting up a research group to undertake a more in depth review.

### **At formal hearing<sup>3</sup>**

- Asking for further evidence and/or witnesses to be brought to a future meeting then making recommendations to the relevant service committee/partner organisation.

## **7. Potential outcomes**

7.1 Following a formal hearing, there are a number of potential outcomes from the Committee meeting:

- The Committee could determine not to make a report or recommendations (perhaps because it is not considered the right time to consider a particular issue), with the ward councillor notified in writing;
- The Committee could determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue;
- The Committee could write a report and make recommendations on the CCfA to Cabinet and/or partners.

7.2 Once the Committee has completed its work on the CCfA referral the member who made the CCfA referral will receive a copy of any report or recommendations made. The reply will also be made available on the Councils website, unless the matter was an exempt item, in which case the report cannot be made public.

## **8. Timescales**

8.1 Once a CCfA has been assessed as not being a matter which is excluded from referral to the Overview and Scrutiny Committee, the item will be included on the next Committee agenda.

8.2 If the Committee agrees to take the matter forward, the hearing will usually be held as an item on the next available agenda. In exceptional circumstances, for example where there are unavoidable time constraints, a separate meeting may be convened.

8.3 Should a CCfA hearing result in recommendations to Cabinet being made, the Cabinet will usually respond to the recommendations, setting out any action it intends to take, within 28 days of the date of the Cabinet agenda on which the recommendations were placed.

8.4 Should a CCfA hearing result in recommendations to partner organisations, such organisations will also be requested to make a response to the recommendations, although they are under no legal obligation to do so.

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<sup>3</sup> Any formal hearing will be run along similar lines to a call-in hearing. Please see explanatory notes pages at Appendix 3 for further details.



**Forest Heath**  
District Council

Forest Heath & St Edmundsbury councils  
**West Suffolk**  
working together



*St Edmundsbury*  
BOROUGH COUNCIL

**Appendix 1**

**Councillor Call for Action Request Form**

This form should be used by any Councillor who would like the Overview and Scrutiny Committee to consider a Councillor Call for Action in their ward.

**Councillor:**

**Address/contact details:**

**The Ward you represent:**

**Title of your Councillor Call for Action:**

**Date of Submission:**

**Please give a brief synopsis of the main areas of concern, including any community groups affected by the CCfA**



## Evidence Section

**Which organisations have you contacted in trying to resolve this issue (please attached relevant documentation)**

**What responses have been received from those organisations, and how do those responses demonstrate that the matter is not being progressed? In particular, have the organisations been given sufficient time to progress the issue (please attach relevant documentation)**

**Has the Committee considered a similar issue recently – if yes, please evidence how the circumstances or evidence have changed**

**Is this a case that is being or should be pursued via the Council's corporate complaints procedure?**

**Is it relating to a "quasi-judicial" matter or decision such as planning or licensing?**

**Is there a similar or related issue which is the subject of a review on the current work programme?**

**Is this an issue currently being looked at by another form of local scrutiny, eg Suffolk County Council?**

**As with all scrutiny, does the matter referred have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the referring member's ward? Please provide details.**

**Is the CCfA currently the subject of legal action by any party (to your knowledge) or is being examined by a formal complaints' process?**

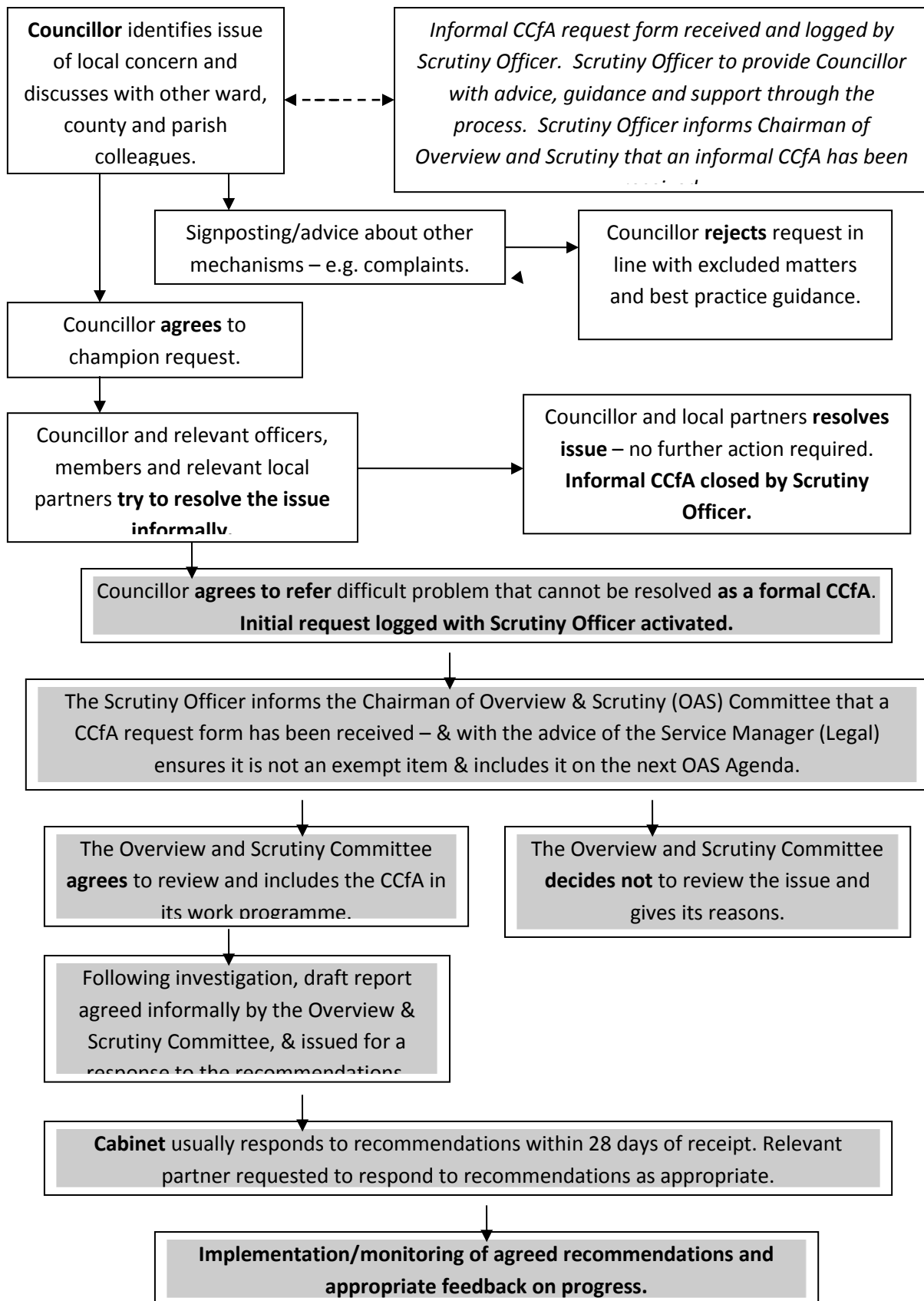
**Are there any deadlines associated with the CCfA of which the Overview and Scrutiny Committee needs to be aware:**

**Please complete and return the form to either:**

St Edmundsbury Borough Council  
Christine Brain (Scrutiny Officer)  
West Suffolk House  
Western Way  
Bury St Edmunds  
Suffolk  
IP33 3YU

Forest Heath District Council  
Christine Brain (Scrutiny Officer)  
District Offices  
College Heath Road  
Mildenhall  
Suffolk  
IP28 7EY

## Appendix 2 – Summary of CCfA Mechanism



## **Appendix 3 - Explanatory Notes**

### **1. Definition of a local government matter and a local crime and disorder matter**

#### Local government matter

For the purpose of the Act a local government matter, in relation to a member of a local authority is one which:

- relates to the discharge of any function of the authority;
- affects all or part of the electoral area for which the referring member is elected or any person who lives or works in the area (ie it must be specific to a particular locality); and
- is not an excluded matter.

#### Local crime and disorder matter

A local crime and disorder matter, in relation to a member of a local authority, has been defined to mean a matter concerning:

- (a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or
- (b) the misuse of drugs, alcohol and other substances that affects the electoral area represented by the member, or the people who live or work in that area.

### **2. Definitions of “vexatious” “persistent” “discriminatory” and “not reasonable”**

Statutory regulations deal with matters that can be excluded from CCfA, stating that “any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee is to be excluded”.

#### Vexatious/Persistent

Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause.

Issues around persistency are implied by this definition. However, a persistent request may well be entirely valid – it may relate to a systematic problem that has not been effectively resolved. Similarly, a request which some members may regard as vexatious, for political reasons, may actually be entirely reasonable.

CCfAs need to be looked at on their merits, rather than on the basis of who is bringing them, or whether somebody thinks there is an ulterior motive for them being brought.

Where a request for a CCfA is clearly vexatious, detailed reasons for coming to this decision will be given to the councillor concerned. There could, however, be instances where changes to the scope of the CCfA, or its focus, could make it more acceptable while still meeting the councillor’s requirements.

### Discriminatory

A modern interpretation of the word "discrimination" is provided at Section 45 of the Equality Act 2006, in relation to religion and belief, as follows:

*A person (A) discriminates against another (B) if on the grounds of the religion or belief of B or of any other person except A, A treats B less favourably than he treats others.* This definition can easily be amended to deal with other forms of discrimination, such as discrimination for reasons of sex and/or race. So a discriminatory CCfA might be one which implies or states that a group of people or an area receives better, or worse, services on account of that group's predominant religion, race, sex or other characteristic, as covered by discrimination legislation.

### Not reasonable

It is suggested that, in the interests of transparency, authorities do not interpret "not reasonable" as being the same as the legal word "unreasonable". It is best to consider it as a qualifier to the word "vexatious", as a vexatious request is likely not to be reasonable and a request that is not reasonable is likely to be vexatious.

## **3. Structure of the CCfA hearing**

A CCfA hearing will be based on the Overview and Scrutiny Committees structure for dealing with call-in hearings.

The following protocol is intended to formalise the conduct of CCfA hearings and the preparation work carried out in the run-up to such a hearing. It should be noted that the protocol may be varied to meet the requirements of any particular circumstances.

### **Prior to the hearing**

1. Shortly after the Overview and Scrutiny Committee agrees to take forward a CCfA to a full hearing, a meeting will take place between the Chairman and Vice-Chairman of the Overview and Scrutiny Committee, relevant officers, Scrutiny Officer, Assistant Director (HR, Legal and Democratic Services), the Service Manager (Shared Legal) and the Member submitting the CCfA, at which a definitive list of witnesses for the CCfA hearing will be drawn up, together with question plans for each witness as appropriate.
2. The CCfA Request Form and any additional papers provided by the referring councillor will be published with the agenda for the meeting.
3. The referring councillor and relevant Portfolio Holder(s), officers and partners will be invited to the meeting.
4. Any other relevant external witnesses will be invited to the meeting.
5. Seven days' notice of a request to attend the meeting will be given to all participants. If a question plan is to be produced, seven days' notice of the questions planned will also be given to participants.
6. Prior to the meeting any member who may have a conflict of interest will be given relevant advice by the Monitoring Officer.

## **The hearing**

1. The CCfA hearing will normally be the first item of business on the agenda, in order that participants and other witnesses are not kept waiting.
2. Participants and witnesses will be placed around the table with the Committee if space permits, but if there is a large number of witnesses or other attendees at the meeting, they may be required to wait in a separate seating area or the public gallery.
3. The referring councillor will be invited to make a presentation outlining his or her reasons for referring the matter as a CCfA. A question and answer session will follow.
4. Any other parties relevant to the hearing, for example Portfolio Holders, officers or partners, will be invited to make presentations outlining their response to the CCfA. Question and answer sessions will follow.
5. Any other relevant external witnesses will be invited to make a presentation to the Committee without interruption, following which there will be a question and answer session. Any witness at a CCfA hearing who does not have a question plan, but is asked for his or her views on a particular issue, will be invited to speak for no more than three minutes.
6. Witnesses will be given the opportunity to add any points of clarification before any resolution or recommendation is moved.
7. The referring councillor will be given the opportunity to add any points of clarification before any resolution or recommendation is moved.



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# **PART 6**

## **MEMBERS' ALLOWANCES SCHEME**

*(As resolved at Council on 21 February 2017, this Scheme has been extended beyond 31 March 2017, until a date of expiry of 31 May 2019)*

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## **1. Background**

- 1.1 St Edmundsbury Borough Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2001 and the Local Authorities (Members' Allowances) Regulations 1991 made a new Scheme on 23 July 2002 after consideration of the advice and recommendations from the Independent Remuneration Panel.
- 1.2 The Scheme was based on the rates recommended by the Panel, which came into effect on 1 September 2002. The Scheme was subsequently been reviewed by the Panel to take into account the implications of the new modernised decision making structure to enable a revised Scheme to come into effect on 1 April 2003. The Scheme has been regularly reviewed by the Panel.
- 1.3 The Scheme may be cited as the St Edmundsbury Borough Council Members' Allowances Scheme and shall be reviewed annually by the Independent Remuneration Panel.

## **2. Basic Allowance**

- 2.1 Subject to Sections 8 or 9, for each year a basic allowance is to be paid to each Councillor as set out in Schedule 1 to the Scheme. This is intended to cover a notional £350 a year (2011/2012) for telephone calls related to Council activity on the part of elected Members, and other incidental expenses, such as stationery and computer peripherals, such as print cartridges.
- 2.2 In accordance with the Council's resolution on 28 June 2005 (Minute 30 (1) refers) and subsequently regularly endorsed, including on 13 December 2011 (Minute 70 refers), it is still considered appropriate that these allowances continue to be updated each year in line with the annual Pay Award made to officers.
- 2.3 The basic allowance is paid in equal monthly instalments, payable on the 23 day of each month or if that day is a weekend/Bank Holiday, then the previous Friday.

## **3. Special Responsibility Allowances (SRA)**

- 3.1 Subject to Sections 8 or 9, for each year, an SRA shall be paid to those Councillors who hold the special responsibilities that are set out in Schedule 1 to this Scheme.
- 3.2 A Councillor may hold more than one position, but only one SRA shall be paid to any Member.
- 3.3 SRA are also paid in equal monthly instalments, payable on the 23 day of each month or if that day is a weekend/Bank Holiday, then the previous Friday.

#### **4. Travel and Subsistence Allowances**

- 4.1 Members are able to claim travel and subsistence allowances in respect of their travel to and from:-
- (a) meetings covered by the list of approved duties referred to in Schedule 2;
  - (b) meetings of outside bodies, organisations to which they have been appointed by the Council, as set out in Schedule 3;
  - (c) meetings with the Chief Executive, Directors and/or Service Managers, subject to such meetings having been pre-arranged and not relating specifically to a Member's ward work or activities.
- 4.2 Details of the rates for travel and subsistence allowances are set out in Schedule 4 to this Scheme.
- 4.3 In accordance with the Council's resolution on 28 June 2005 (Minute 30(2) refers) and regularly endorsed, it is still considered appropriate that the subsistence allowances be directly linked to the rates payable to the officers and, therefore, be amended as and when the officers scheme is amended.

#### **5. Childcare and Dependant Carers' Allowance**

- 5.1 This allowance is divided into two parts; namely childcare and elderly/disabled care.
- 5.2 For reimbursement of childcare costs, £6.08 an hour is the maximum rate payable for reimbursement of costs. If paying less than this rate then the rate actually paid should be claimed.
- 5.3 For elderly/disabled care, £12.10 an hour is the maximum rate payable for reimbursement of costs. If paying less than this rate then the rate actually paid should be claimed.
- 5.4 The care allowance is payable in respect of:-
- (a) children aged 14 or under;
  - (b) elderly relatives requiring full time care; and
  - (c) relatives with disabilities or nursing requirements who require either temporary or permanent full time care.

In each case the dependant must normally live with the claimant as part of the family and be unable to be left unsupervised.

- 5.5 A carer can be any responsible mature person who does not normally live with the claimant as part of the family. The allowance should not be payable in respect of carers who are members of the Councillor's immediate and close

family, i.e. parents, children, spouses, cohabitees or members of the same household as the Councillor.

5.6 Schedule 5 provides full details on the operation of the Scheme.

## **6. Disability or Special Need**

6.1 The Council will make necessary reasonable adjustments to allow a Councillor with a disability or a special need to carry out their role. The assessment of the adjustments will be on an individual basis.

6.2 Where appropriate, a Councillor's Carer costs will be eligible for reimbursement at the same rate as detailed in the Childcare and Dependent Carers' Allowance Scheme detailed in Schedule 5 of the Members' Allowance Scheme.

6.3 If a Councillor's disability prevents them from using a bicycle or private car then the Travel Allowance Scheme will allow for the use of taxis or specialised transport arrangements.

6.4 The Assistant Director (HR, Legal and Democratic Services) be authorised to approve the reimbursement of costs for Councillors with a disability or special need that are not specified within the Members' Allowance Scheme, to include items such as the provision of specialist IT equipment or the availability of a wheelchair for use in the Council's buildings.

## **7. Pensions**

7.1 From 1 April 2004, Members have been eligible to join the Local Government Pension Scheme.

## **8. Absence**

8.1 No Special Responsibility Allowance be paid to the absent Member when the responsibility is undertaken and the allowance is paid to another Member.

8.2 A Member should receive 100% of the Basic Allowance for the first six months of absence, from the date on which they last attended a meeting, and, subject to full Council granting dispensation, from six to twelve months absence 50% of the Basic Allowance. No allowance be payable after one year's absence.

## **9. Renunciation**

9.1 A Councillor may by notice in writing given to the Proper Officer elect to forego any part of their entitlement to an allowance under this Scheme.

9.2 Any Councillor foregoing an allowance under these provisions may elect for all or part of their renounced gross entitlements to be transferred into the Mayor of St Edmundsbury's Official Charity Fund. Any such foregone entitlements must then be used for one-off grants to one or more of the

chosen charities of the Mayor for the municipal year in which the renouncement is made.

#### **10. Part-Year Entitlements**

- 10.1 When the term of office of a Councillor begins or ends then the entitlement of that Councillor to the basic and/or special responsibility allowance will be in the same proportion as the number of days during the term of office to the number of days in that year.
- 10.2 When an amendment to this Scheme changes the amount to which a Councillor is entitled then the existing rates are payable ending with the day before the amendment takes effect.

#### **11. Claims**

- 11.1 Annual claims for allowances under this Scheme shall be made in writing, using the prescribed form, within two months of the commencement of the financial year or within two months of a revision to the Scheme.
- 11.2 The annual claim forms will include the details of mileage to attend meetings in Bury St Edmunds. A claim for travelling expenses will be initiated by a Member signing the relevant meeting attendance sheet.

#### **12. Payments shall be made**

- 12.1 The basic allowance and special responsibility allowances are paid in equal instalments, payable on the 23 day of each month or if that day is a weekend/Bank Holiday, then the previous Friday in which they are entitled to a basic or special responsibility allowance.
- 12.2 Expense claims should be made regularly throughout the year on the appropriate claim form, which will detail the mileage and expenses incurred, and claimed, by the Member. Any claim for expenses must be made by the person to whom they are payable, in accordance with the Local Authorities (Members Allowances) (England) Regulations 2003.

## Schedule 1 – Schedule of Members’ Allowances

Set out below are details of the amounts of Members’ Allowances payable under the Scheme with effect from April 2018 and including pay increases index-linked to officers’ pay increases.

<b>Allowance</b>	<b>Amount £ (Updated: 1 April 2018)</b>
<b>(1) Basic Allowance</b>	
All Councillors	5,568.23
<b>(2) Special Responsibility Allowances: Additional to the Basic Allowance</b>	
Leader of the Council	11,135.45
Deputy Leader	6,682.10
Other Cabinet Members	6,128.56
Chairman of Overview and Scrutiny Committee	3,344.17
Vice-Chairman of Overview and Scrutiny Committee	1,673.13
Chairman of Performance and Audit Scrutiny Committee	3,344.17
Vice-Chairman of Performance and Audit Scrutiny Committee	1,673.13
Chairman of Development Control Committee	4,455.43
Vice-Chairmen of Development Control Committee	1,673.13
Chairman of Licensing and Regulatory Committee	1,111.26
Chairman of Standards Committee	1,111.26
Chairman of Sustainable Development Working Party <i>(Note: Working Party was disbanded in May 2017)</i>	2,226.67
<b>Group Leaders</b>	
(a) Groups with 10 or more Members	3,344.17
(b) Groups of between 5 to 9 Members	1,673.13

<b>Allowance</b>	<b>Amount £</b> (Updated: 1 April 2018)
<b>(3) Co-optees Allowance</b>	
Member of Standards Committee	219.55
<b>(4) Exceptional Responsibility Allowance</b>	
A special meeting of the Independent Remuneration Panel be convened by the Assistant Director (HR, Legal and Democratic Services) to consider the payment of an exceptional responsibility allowance if considered necessary.	
<b>(5) Childcare and Dependent Carers' Allowance</b>	
(a) Childcare Allowance	£7.38 an hour (National Minimum Wage)
	£7.83 per hour (National Living Wage – age 25 and over)
(b) Dependant Carers' Allowance	up to £12.49 an hour

**The Allowances listed above relate to a *full year***



## Schedule 2 – Approved Duties

The duties are specified in the Local Authorities (Members' Allowances) England Regulations 2003 as follows:-

- (a) a meeting of the executive;
- (b) a meeting of a committee of the executive;
- (c) a meeting of the authority;
- (d) a meeting of a committee or sub-committee of the authority;
- (e) a meeting of any other body to which the authority makes appointments or nominations;
- (f) a meeting of a committee or sub-committee of any other body to which the authority makes appointments or nominations;
- (g) a meeting which has *both* been authorised by the authority, a committee or sub-committee of the authority or a joint committee of the authority and one or more other authorities, or a sub-committee of a joint committee *and* to which representatives of more than one political group have been invited (if the authority is divided into several political groups) or to which two or more Councillors have been invited (if the authority is not divided into political groups);
- (h) a meeting of a local authority association of which the authority is a member;
- (i) duties undertaken on behalf of the authority 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;
- (j) duties undertaken on behalf of the authority 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; and
- (k) duties undertaken on behalf of the authority in connection with arrangements made by the authority for the attendance of pupils at a school approved for the purposes of section 342 of the Education Act 1996.

## **Schedule 3 – Representation on Outside bodies/organisations**

(as reviewed at Annual Council on 17 May 2018)

Association for Suffolk Museums Management Committee  
Abbey of St Edmund Heritage Partnership  
'Breaking New Ground' Board (*replaces the Brecks Partnership – Core Management Group*)  
Bury St Edmunds Volunteer Centre - Management Committee  
Dedham Vale Area of Outstanding Natural Beauty (AONB) and Stour Valley Joint Advisory Committee  
District Councils' Network  
Destination Management Organisation (DMO): Bury St Edmunds  
East of England Local Government Association (EELGA)  
George Savage Trust  
Gershom Parkington Memorial Trust  
Guildhall Feoffment Trust  
King Edward VI Grammar School, Bury St Edmunds Foundation  
Local Government Association (LGA) General Assembly  
New Anglia Local Enterprise Partnership (LEP) Board  
ONE Haverhill Partnership Board  
'OurBuryStEdmunds' (Bid4Bury) Board of Directors  
Our Greenest County Board (Suffolk County Council)  
Rural Services Network (SPARSE)  
Smith's Row Art Gallery Trust  
St John's Centre Trustees, Bury St Edmunds  
Southgate Community Partnership  
Stiff's Almshouses Charity Trustees, Rougham  
Suffolk County Council: Health Scrutiny Committee  
Suffolk County Council: Health and Wellbeing Board  
Suffolk County Council: Suffolk Flood Risk Joint Scrutiny Sub-Committee  
Suffolk Joint Emergency Planning Policy Panel  
Suffolk Police and Crime Panel  
Suffolk Waste Partnership (SWP)  
Suffolk West Citizens' Advice  
Theatre Royal Board of Management  
West Stow Anglo Saxon Village Trust  
Western Suffolk Community Safety Partnership

### Representation on Wholly-owned/Joint Venture Commercial Companies

Barley Homes (Group) Ltd  
Verse Facilities Management Ltd

## Schedule 4 – Travel and Subsistence Allowances

### 1. Travel Allowance

- (a) Private Vehicle Allowance : 45.0 pence a mile
- (b) Train or Bus : actual standard fare incurred
- (c) Taxi : actual fare incurred plus gratuity
- (d) Motor Cycles : 24.0 pence a mile
- (e) Bicycle Allowance : 20.0 pence a mile
- (f) Car parking fees : actual expenditure incurred.

### 2. Day Subsistence Allowances

- 2.1 The subsistence rates listed below are with effect from 1 January 2010, and the allowance will be the same as, and linked to, the rates payable to officers.
- 2.2 Day subsistence expenses will be payable to a Member who is prevented by official duties from taking a meal at home or the place where they normally take their meals and thereby incurs additional expenditure.
- 2.3 The payment of subsistence allowances is subject to the principle that expenditure on meals has actually been incurred. Members will be reimbursed the actual expenditure incurred up to the maximum rates set out in the scheme. All claims must be supported by receipts or third party documentation.
- 2.4 Day Subsistence – payable if absent for more than four hours
- (a) Breakfast Allowance  
*(More than 4 hours away from normal place of residence before 11.00 am)* £6.88
  - (b) Lunch Allowance  
*(More than 4 hours away from normal place of residence including lunchtime between 12.00 noon and 2.00 pm)* £9.50
  - (c) Tea Allowance  
*(More than 4 hours away from normal place of Residence ending after 6.30 pm)* £3.76

(d) Evening Meal Allowance  
*(More than 4 hours away from normal place of  
Residence ending after 8.30 pm)* £11.77

2.5 Either a tea or evening meal can be claimed but not both.

2.6 **Overnight Subsistence (deemed to cover a 24 hour period)**

Outside London £80.00

For such an absence in London, or for attending one  
of the conferences approved by the Secretary of State £100.00

The overnight subsistence allowance may be exceeded on the authorisation of an Assistant Director, for example in order for a Member to stay in a hotel associated with a particular conference.

2.7 **Meals provided free of charge**

The rate shall be reduced by an appropriate amount in respect of any meal provided free of charge by an authority or body in respect of the meal for the period to which the allowance relates.

2.8 **Meals on Trains**

If Members are away for a period of over four hours and take a meal on a train they can claim the cost of the meal. If they do so the subsistence band is reduced by three hours for each meal taken.

If absent for 4-8 hours, Members may claim 1 main train meal.

If absent for 8-12 hours, Members may claim 2 main train meals.

If absent for over 12 hours, Members may claim 3 main train meals.

## **Schedule 5 – Childcare and Dependant Carers’ Allowance**

- 1.** Full Council at its meeting on 23 July 2002 approved the principle of reimbursement of dependants care expenses which have actually been incurred, and are reviewed annually by the Independent Remuneration Panel.
- 2. Persons Eligible to Claim and Duties for which they may claim**
  - 2.1 Borough Councillors may claim reimbursement of care expenses in respect of any approved duty. The duties are specified in the Local Authorities (Members’ Allowances) England Regulations 2001 as follows:-
    - (a) a meeting of the executive;
    - (b) a meeting of a committee of the executive;
    - (c) a meeting of the authority;
    - (d) a meeting of a committee or sub-committee of the authority;
    - (e) a meeting of any other body to which the authority makes appointments or nominations;
    - (f) a meeting of a committee or sub-committee of any other body to which the authority makes appointments or nominations;
    - (g) a meeting which has *both* been authorised by the authority, a committee or sub-committee of the authority or a joint committee of the authority and one or more other authorities, or a sub-committee of a joint committee *and* to which representatives of more than one political group have been invited (if the authority is divided into several political groups) or to which two or more Councillors have been invited (if the authority is not divided into political groups);
    - (h) a meeting of a local authority association of which the authority is a member;
    - (i) duties undertaken on behalf of the authority 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;
    - (j) duties undertaken on behalf of the authority 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; and

(k) duties undertaken on behalf of the authority in connection with arrangements made by the authority for the attendance of pupils at a school approved for the purposes of section 342 of the Education Act 1996.

2.2 When travelling away from home to an approved duty (conference, seminar etc) which may involve an overnight stay, care expenses may be claimed in respect of the total duration of the duty less any period during which e.g. a child/children may be at school.

### **3. Maximum Rate Per Hour Payable and for how long payable**

3.1 £6.08 an hour is the maximum rate payable for reimbursement of childcare costs and £12.10 an hour for dependant carers' allowance. If paying less than this rate you should claim the rate actually paid. If you have to pay more, you can only claim the maximum.

3.2 The time claimed for should normally equate to the period from leaving home to attend the meeting etc to returning home afterwards.

### **4. Definition of 'Dependant' and 'Carer'**

4.1 The care allowance is payable in respect of:-

(a) children aged 14 or under;

(b) elderly relatives requiring full time care; and

(c) relatives with disabilities or nursing requirements who require either temporary or permanent full time care.

in each case the dependant must normally live with the claimant as part of the family and be unable to be left unsupervised.

4.2 A carer can be any responsible mature person who does not normally live with the claimant as part of the family. The allowance should not be payable in respect of carers who are members of the Councillor's immediate and close family, i.e. parents, children, spouses, cohabitees or members of the same household as the Councillor.

### **5. Method of Claim**

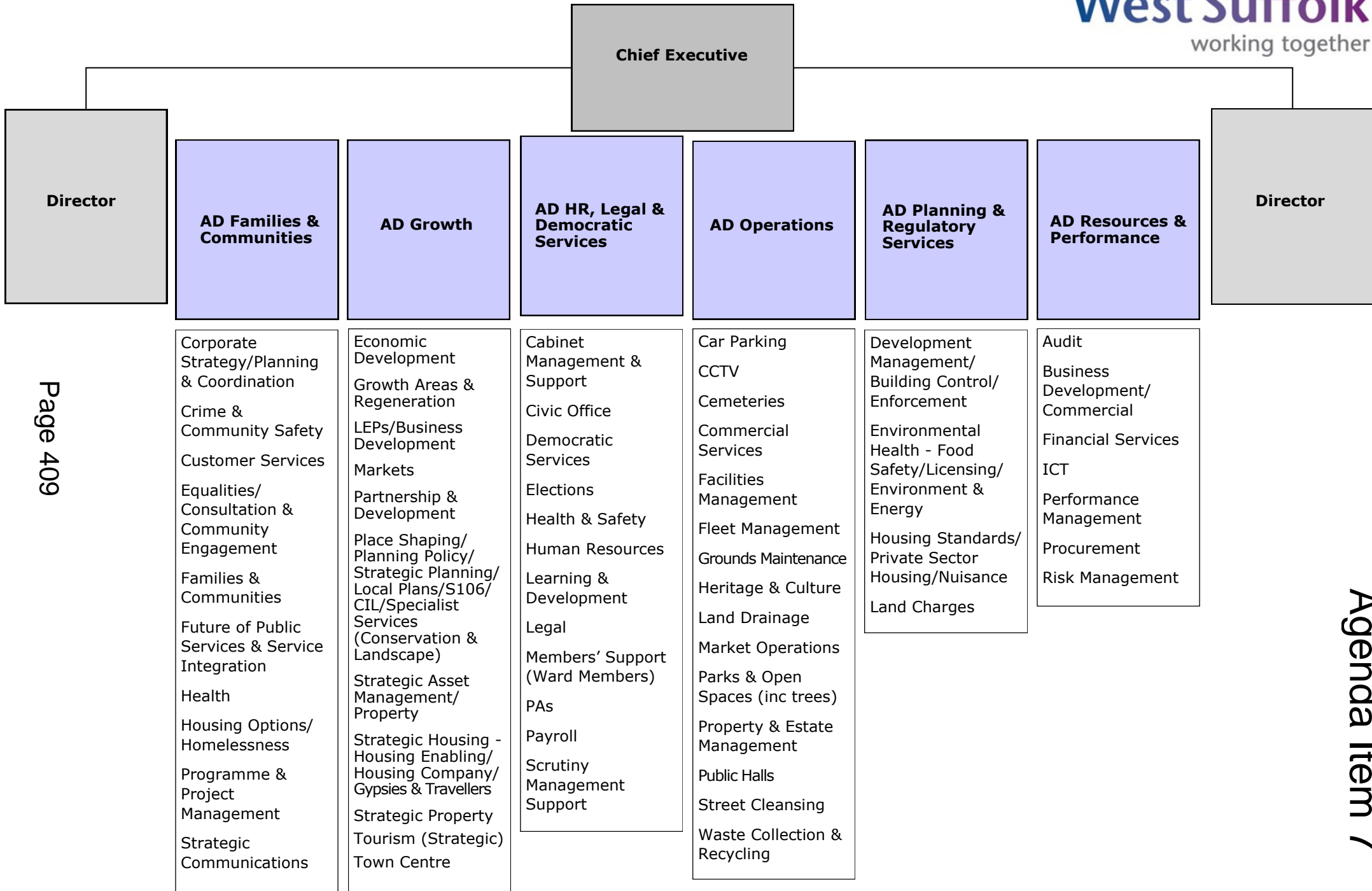
5.1 A receipt in the standard format should be obtained from the carer for each amount paid. A proper business paid invoice or receipt would be acceptable in place of the standard receipt if this is provided.

- 5.2 A reimbursement claim detailing the duties carried out and supported by the appropriate receipt(s) should be forwarded to the Service Manager (Democratic Services) at the end of each month. Reimbursement will be included in the next payment of Councillors' allowances.

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# Leadership Team and responsibilities



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