

# **Broxtowe Borough Council**

# **CONSTITUTION**

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# **Broxtowe Borough Council Constitution**

## **Chapter 1 – Part 1**

### **Summary and Introduction**

## **Chapter 1 Part 1: SUMMARY & INTRODUCTION**

### **1. Description of Broxtowe**

Broxtowe Borough Council is a district Council established by the Local Government Act 1972, whose administrative area covers the southwest of Nottinghamshire. The administrative centre of the Borough is Beeston, the largest of the four principal towns, the others being Eastwood, Stapleford and Kimberley. The Borough forms the western edge of the greater Nottingham conurbation, with the City of Nottingham bordering much of the eastern boundary of the Borough. To the west lie the Derbyshire Boroughs of Erewash and Amber Valley. The M1 motorway bisects the Borough and junctions 25 and 26 are located within it.

Broxtowe is compact, covering an area of only 8,010 hectares, two thirds of which is greenbelt, and has a population of 114,600. This figure represents 13.8% of the total population of the County of Nottinghamshire.

### **2. Summary of the Council's Constitution: explanation, purpose and content**

This Constitution regulates the ways in which the Council conducts its business and delegates its functions. It sets out arrangements with other authorities: the Town and Parish Councils within its area and with Erewash Borough Council in the operation of Bramcote Bereavement Services via the Joint Committee. The Constitution is designed to bring together key corporate documents which describe the management structures of the Council and governs its internal processes by means of protocols, codes of conduct and good practice/guidance.

### **3. Elections to the Council**

Whole Council elections are held every four years, with Councillors being elected for a four-year term of office. The number of Councillors is determined by the profile of the Borough and the size of the electorate and currently comprises 44 Councillors, which are kept under review by the government and is maintained through periodic electoral reviews.

A person is entitled to vote in an election for membership of the Council or certain other elections if they are:

- resident in the area
- not under a legal incapacity preventing them from voting
- a qualifying Commonwealth, Irish or EU citizen or an EU citizen with retained rights and

- of voting age and their name is included in the Register of Electors

The qualifications for voting vary depending on the type of election (Borough/Parish/County/Parliamentary/European).

#### **4. Detail**

##### **a) The Executive (Cabinet)**

The Cabinet (the Executive) is a group of not more than ten Councillors appointed by the Leader who, subject to their availability, would take the Chair at their meetings. The Leader is appointed by the Council as a whole and may be discharged by it as provided for in the Constitution. A Member of the Cabinet is identified as a “Portfolio Holder” and there are currently portfolios for the following areas of Council work – Resources and Personnel Policy, Economic Development and Asset Management, Housing, Leisure and Health, Environment and Climate Change, and Community Safety. However, variations to those areas and to the responsibilities of Cabinet Members may take place from time to time as determined by the Leader. A Portfolio Holder represents his or her designated area of responsibility in meetings of the Council, the Cabinet and elsewhere.

The Cabinet is responsible for the majority of the Council's decisions and also for proposing the principal strategic policies which the full Council is invited to adopt. Such strategic matters include the budgetary framework, responsibility for the Council's resources and the making of planning and housing policies that affect all residents of the Borough.

##### **b) Scrutiny**

Despite the wide-ranging powers of the Cabinet, the Non-Executive side of the Council has significant responsibility and balances the power of the Executive. An Overview and Scrutiny Committee ('OSC') has been appointed to scrutinise the actions of the Executive and to review the policies and practices of the Council and the wider community within their remit. The OSC has the power to inquire, research and report on matters within its remit. The OSC has the overall task of determining which topics are selected for scrutiny. In addition, it can 'call-in' decisions of the Executive which have not yet been implemented and thereby enable further consideration to be given to them.

##### **c) Regulatory and Quasi-Judicial**

In addition, under the provisions of the Local Government Act 2000, certain regulatory and quasi-judicial decisions may not be taken by Cabinet. The Council has therefore established a Planning Committee to look after applications for planning permission and planning enforcement. The Licensing and Appeals Committee has a Licensing and

Appeals Panel which deals with the appeals which are made to the Council against decisions that have been taken as well as all the Council's licensing functions e.g. taxis and dangerous wild animals. Matters for which responsibility is conferred on the Council by the Licensing Act 2003 and the Gambling Act 2005, which include liquor licensing and regulated entertainment as well as gambling, are dealt with by the Alcohol and Entertainment Licensing Panel. The regulatory and quasi-judicial Committees have special rules which follow principles of natural justice.

d) Ethical

The government has also been concerned to strengthen the security of ethical standards in local government. In line with those expectations the Council has accordingly established a Governance, Audit and Standards Committee, Standards Hearing Sub Committee and Advisory Shareholder Sub Committee. The Governance, Audit and Standards Committee will keep under review the codes of conduct for Members and Officers and ensure proper training is provided for their implementation. The Standards Hearing Sub Committee, in partnership with the Monitoring Officer, will also examine cases where it is alleged that standards of conduct have not been maintained. The Advisory Shareholder Sub Committee will support and advise the Portfolio Holder for Resources and Personnel Policy and the Cabinet in its exercise of the Council's function, as the shareholder of the Council's companies.

e) General

There is a range of other bodies exercising Council functions. These include the Governance, Audit and Standards Committee, Planning Committee, Licensing and Appeals Committee and the Senior Officer Employment Committee. More details of these and other bodies are detailed at Chapter 2 of this Constitution.

As envisaged by the government the bulk of everyday decisions of the Council are taken by Officers acting within the policies and guidelines established by the Council, its Cabinet and Committees. Officers' powers are contained in the Scheme of Delegation.

## **5. General Principles**

In drawing up its constitutional arrangements the Council has sought to achieve the government's purpose in providing clear accountability in decision-making.

The Council, at an early stage in formulating its procedures, decided that the Cabinet and the Committees, as legislatively required, should so far as possible meet in public. It also decided that the Committees should reflect as far as possible the political balance of all those Members elected to the Council and that the Cabinet Members would take decisions

collectively rather than on an individual basis. Those three principles are enshrined in this Constitution.

## **6. Constitution**

This Constitution embraces a number of documents to put the above principles into effect. The documents will be kept under review by the Council and will be amended in line with legislative requirements and best practice from time to time. The following documents comprise the Council's Constitution:

### **CHAPTER 1: INTRODUCTION**

Part 1: Summary and Introduction

Part 2: Decision Making and Types of Decisions

### **CHAPTER 2: PROCEDURE RULES AND ARRANGEMENTS**

Part 1&2: The Council and Council Procedure Rules

Part 3: The Executive (Cabinet)

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Part 5: Access to Information Procedure Rules

Part 6: Budget and Policy Framework Procedure Rules

Part 7: Overview & Scrutiny Arrangements and Procedure Rules

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Part 3: Good Practice

Part 4: Protocol for Councillor/Officer Relations

Part 5: Whistleblowing Charter



Part 6: Charter for Consultation and Relations with Parish and Town Councils

**CHAPTER 6: APPENDICIES**

Appendix 1: Governance structure chart

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Appendix 4: Bramcote Bereavement Services Joint Committee

Appendix 5: Economic Prosperity Committee

Appendix 6: Notice of Call in of Decision

# **Broxtowe Borough Council Constitution**

## **Chapter 1 – Part 2**

### **Decision Making and Types of Decisions**

## **Chapter 1 Part 2: DECISION- MAKING AND TYPES OF DECISIONS**

### **1. Responsibility for Decision Making**

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or function.

### **2. Principles of Decision-Making**

All decision-making must comply with the relevant Procedure Rules, applicable legislation and the below principles, and

decision-makers will:-

- 2.1 be open and transparent;
- 2.2 act within their authority;
- 2.3 take into account all relevant considerations and ignore irrelevant considerations;
- 2.4 evaluate alternative options;
- 2.5 undertake consultation as required or as may be appropriate;
- 2.6 make decisions which are reasonable and proportionate to the desired outcome;
- 2.7 obtain and consider professional advice as may be required or appropriate;
- 2.8 ensure best value;
- 2.9 have regard to the Council's Constitution and relevant policies, rules and procedures;
- 2.10 have regard to the rules of natural justice;
- 2.11 comply with all relevant legislation including but not limited to as regards human rights and the public sector equality duty.

### **3. Decisions Reserved to Full Council (Non-Executive Decisions)**

Decisions relating to the functions detailed in Chapter 2, Part 1& 2 will be made by the Council.

### **4. Cabinet Decisions (Executive Decisions)**

Decisions which under the law or in accordance with this Constitution cannot be made by full Council or a Committee of the Council. The Leader has the power to decide

how Cabinet decisions will be made and has determined that that they will be made by the Cabinet collectively, and that Cabinet Members will not be delegated individual decision-making authority. Cabinet decisions must be made in compliance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information (England) Regulations 2012 and the terms of this Constitution.

**5. Non-Executive Decisions**

Non-Executive decisions made by a Committee or an individual Officer under delegated authority must be published as soon as reasonably practical and in accordance with the provisions of this Constitution and the Openness of Local Government Bodies Regulations 2014, where required unless otherwise prescribed by legislation specific to the decision.

**6. Key Decisions**

A Key Decision is defined under Regulation 8 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and is a decision made or to be made in connection with the discharge of an Executive function which is likely to:-

- 6.1 result in the Council incurring revenue or capital expenditure or savings of £250,000 or more; or
- 6.2 be significant in terms of its effects on communities living or working in an area comprising two or more Wards or electoral divisions in the Council's area.

Notice of Key Decisions to be taken must be published in advance (except in cases of urgency) so that members of the public and Members are able to consider the implications of the decision and have an opportunity to make representations before the decision is made. The Overview and Scrutiny Committee can also "call in" the decision through the Call-In Procedure.

**7. Administrative Decisions**

An administrative decision is an operational decision made by an Officer in the performance of their day to day duties or a decision made by an Officer which implements or gives effect to an Executive, Non-Executive or Key Decision which has already been made. An Officer making an administrative decision:-

- 7.1 Does not need to prepare or publish a formal report, but should ensure consultation is undertaken where appropriate;

- 7.2 Does not have to maintain a record of administrative decisions for the purpose of 2012 Regulations (see above at 4) or the 2014 Regulations (see above at 5) but must retain a record of decisions, with reasons, for audit purposes;
- 7.3 Must ensure those who need to know of the decision are promptly informed of it.

8. **Committees Making Decisions Concerning Licences etc.**

Where a Committee or Sub-Committee is determining the grant, refusal or sanction of a permit, licence, permission or right at a hearing it must follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial under Article 6 of the European Convention on Human Rights.

9. **Urgent Decisions**

- 9.1 A decision will be urgent if any delay would seriously prejudice the Council's or the public's interests.
- 9.2 The record of the decision and the notice by which it is made public shall include whether in the opinion of the decision-maker the decision is an urgent one and therefore not subject to Call-In.
- 9.3 Where applicable and reasonably possible the decision-maker should consult with the Leader or in their absence the Deputy Leader (in respect of Executive Decisions) and the Chair or in their absence the Vice-Chair of the relevant Committee (Non-Executive Decisions). The Monitoring Officer and where appropriate the Section 151 Officer (or in their absence their deputies) should also be consulted.
- 9.4 The Chair of the Overview & Scrutiny Committee or in their absence the Vice-Chair must agree that the decision is urgent and cannot be deferred. In the absence of the Chair or Vice-Chair of the Overview & Scrutiny Committee, the agreement of the Mayor, in their absence the Deputy Mayor, must be obtained.
- 9.5 Decisions taken as a matter of urgency must be published in accordance with applicable legislative requirements and reported to the next available meeting of the Council together with the reasons for urgency.



Broxtowe  
Borough  
COUNCIL

# **Broxtowe Borough Council Constitution**

## **Chapter 2 – Part 1 & 2**

### **The Council and Council Procedure Rules**

## **Chapter 2 Part 1 & 2: THE COUNCIL AND COUNCIL PROCEDURE RULES**

### **Part 1:**

#### **1. The Council**

##### **Functions & Responsibilities**

- 1.1 Under the provisions of the Local Government Act 2000 and, where applicable, Sections 101 and 102 of the Local Government Act 1972 and other relevant legislation, and in the manner set out in this Constitution the Council arranges for the discharge of its functions by the Cabinet (Executive functions), Committees (Non-Executive functions) and by Officers under delegated authority other than:
- 1.2 Those functions reserved as Council Functions by the Local Government Act 2000 (as amended) or any other Act.
- 1.3 Those functions set in Schedule 1 of the Local Authorities (Functions and Responsibilities (England) Regulations 2000 (as amended);
- 1.4 Those plans and strategies set out in Schedule 3 of the of the Local Authorities (Functions and Responsibilities (England) Regulations 2000 (as amended);
- 1.5 Those functions which would be Cabinet functions but for the circumstances set out in Schedule 4 of the Local Authorities (Functions and Responsibilities (England) Regulations 2000 (as amended);
- 1.6 Those functions set out below which the Council has determined shall be reserved to the Council:
  - 1.6.1 Consideration of reports by the Chief Executive under Section 4(5) of the Local Government and Housing Act 1989
  - 1.6.2 The election of the Mayor of the Council under S.4 of the Local Government Act 1972
  - 1.6.3 The appointment of the Deputy Mayor of the Council under S.5 of the Local Government Act 1972
  - 1.6.4 The matters set out in section 67(2)(a), (b), (c) and (d) of the Local Government (Finance) Act 1992 being determination as to discounts or liability in prescribed cases and the setting of the Council Tax
  - 1.6.5 Determination or variation of the Council's affordable borrowing limit under Section 3 of the Local Government Act 2003
  - 1.6.6 Appointing and Discharging the Leader of the Council by resolution
  - 1.6.7 Noting the appointment of the Leader and Deputy Leader of the Opposition and the Leader and Deputy Leader of any other political group;
  - 1.6.8 Approval or adoption of amendment of the following policy documents:

The Council's Constitution including

- (a) Procedure Rules.
- (b) The Code of Conduct.
- (c) Corporate Plan.
- (d) Overall capital programme and revenue budget (including associated strategies).
- (e) Statement of Licensing Policy.
- (f) Statement of Gambling Principles.

1.6.9 The making of byelaws.

1.6.10 The promotion or adoption of an Act of Parliament.

1.6.11 The receipt of petitions.

1.6.12 The appointment and dismissal of the Chief Executive, Monitoring Officer, S151 Officer. and other Chief Officers.

1.6.13 The adoption and amendment of the Councillor's allowance scheme.

1.6.14 Determining or delegating of any matter or function within the remit of the Council not delegated or performed elsewhere under this scheme.

1.6.15 Functions conferred on the Council by Part 4 of the Local Government and Public Involvement in Health Act 2007 in respect of the receipt of petitions and the institution, conduct and determination of a Community Governance Review.

1.6.16 Appointment to outside bodies.

1.6.17 Establishing Joint Committees to perform functions that would fall to be performed by a Joint Committee of the Council and similar Members or representative of some other authority or body.

1.6.18 Pay Policy.

1.6.19 Approving and adopting the Budget and Policy Framework.

## **The Budget and Policy Framework**

### **2. The Policy Framework**

2.1 The Policy Framework means the following plans and strategies:

2.1.1 Corporate Plan / Forward Plan

2.1.2 Development Management Documents prepared in accordance with the Planning and Compulsory Purchase Act 2004 (or as subsequently amended)

2.1.3 The Planning Development Plan

2.1.4 Licensing Authority Policy Statement



- 2.1.5 Statement on Gambling Policy
- 2.1.6 Crime and Disorder Reduction Strategy
- 2.1.7 Annual Treasury Management Strategy
- 2.1.8 Financial Strategy (Medium Term Financial Plan, Revenue Budget, Council Tax Setting and Capital Programme)
- 2.1.9 Capital Investment Strategy
- 2.2 Budget

The Budget includes the allocation of financial resources to different services and projects, centrally held funds, determining the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
- 2.3 Budget and Policy Framework Procedure Rules

The Budget and Policy Framework are prepared and adopted by the Council in accordance with the Budget and Policy Framework Procedure Rules set out at Chapter 2 Part 6 of this Constitution.

## **Part 2: Council Procedure Rules**

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

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

In a year when there is an ordinary election of Councillors, the annual meeting will take place on the second Wednesday following the first Thursday in May. In any other year, the annual meeting will take place in the month of May. The annual meeting will:

- 1.1.1 elect a person to preside if the Mayor and Deputy Mayor of the Council are not present;
- 1.1.2 elect the Mayor of the Council;
- 1.1.3 appoint the Deputy Mayor of the Council;
- 1.1.4 approve the minutes of the last meeting;
- 1.1.5 receive any announcements from the Mayor;
- 1.1.6 note the Leader of the Council, the Leader of the Opposition and the Leader of any other group;
- 1.1.7 elect the Leader in the year of an ordinary election of Councillors;
- 1.1.8 appoint the Committees the Council considers appropriate to deal with matters which are not reserved to the Council (as set out later in this Constitution);

- 1.1.9 agree the scheme of delegations or such part of it as the Constitution determines it is for the Council to agree (as set out later in this Constitution);
  - 1.1.10 consider any 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 meeting will:
  - 1.2.1 decide the allocation of seats to political groups in accordance with the political balance rules;
  - 1.2.2 make appointments to outside bodies except where appointment to those bodies has been delegated by the Council;
  - 1.2.3 appoint the Chairs and Vice-Chairs of Committees;
  - 1.2.4 note that either the Leader of the Council or another Councillor being their nominated representative, and either the Leader of the Opposition or another Councillor being their nominated representative, have the right to attend any of the Council's Committees, which are not scrutiny Committees, as ex-officio Members and to speak but not vote at it provided that such nominated representatives may not be in attendance at the same meeting as their respective Leaders, unless they have been appointed as a Member of that Committee or are acting as a substitute for a named Member.

## **2. Ordinary Meetings**

- 2.1 Ordinary meetings of the Council will take place in accordance with a programme decided at a previous meeting. The order of business at ordinary meetings will be as follows:
  - 2.1.1 elect a person to preside if the Mayor and Deputy Mayor are not present;
  - 2.1.2 approve the minutes of the last meeting;
  - 2.1.3 receive any declarations of interest from Members;
  - 2.1.4 receive any announcements from the Mayor;
  - 2.1.5 receive a report from the Leader and receive questions and answers on the report if any;
  - 2.1.6 receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Chief Executive are relevant to the Council's functions (subject to Rule 8.5);
  - 2.1.7 receive reports from the Cabinet Portfolio Holders and receive questions and answers on the reports;
  - 2.1.8 receive reports from the Committees and receive questions and answers on the reports;

- 2.1.9 consider business which, in the opinion of the Chair or Vice-Chair of the Overview & Scrutiny Committee, or in their absence, the Mayor or Deputy Mayor, or in their absence the Chief Executive or their nominee's should be considered at the meeting as a matter of urgency;
- 2.1.10 receive petitions in relation to matters which in the opinion of the Chief Executive are relevant to the Council's functions;
- 2.1.11 receive items referred from the Committees or questions from Members on the business of the Committees;
- 2.1.12 consider any other business specified in notice convening the meeting, including proposals from the Cabinet in relation to the Budget and Policy Framework and reports from the Overview and Scrutiny Committee;
- 2.1.13 consider motions;
- 2.1.14 receive a presentation from the Youth Mayor, as appropriate, (and/or the Deputy Youth Mayor), by invitation, for up to five minutes on the activities of Broxtowe Youth Voice (the Youth Mayor and/or the Deputy Youth Mayor will have the right to speak, but not to vote, on any item on the agenda at a full Council meeting whether annual or ordinary with the rules on speaking being as per these Council Procedure Rules);
- 2.1.15 receive questions from Councillors to those representing the Council on outside bodies;
- 2.1.16 deal with questions from Councillors in accordance with Rule 10;
- 2.1.17 approve a programme of ordinary meetings of the Council and Committees for the year at an appropriate time. The Council meeting to consider the budget shall be limited to only that substantive item unless by agreement of the Mayor;
- 2.1.18 approve amendments to the membership of Committees.

### **3. Extraordinary Meetings**

#### **3.1 Calling extraordinary meetings**

The Chief Executive or in their absence, the Deputy Chief Executive (section 151 Officer) may call Council meetings in addition to ordinary meetings and those listed below may request the Chief Executive or in their absence, the Deputy Chief Executive to call additional Council meetings:

- 3.1.1 the Council by resolution;
- 3.1.2 the Mayor of the Council;
- 3.1.3 any five Members of the Council if they have signed a requisition presented to the Mayor of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven clear working days of the presentation of

the requisition the Chief Executive, the Deputy Chief Executive (Section 151 Officer) or the Monitoring Officer, respectively, in the exercise of their statutory duties.

### **3.2 Business of extraordinary meetings**

The business to be conducted at an extraordinary meeting shall be restricted to the item of business contained in the request for the extraordinary meeting and there shall be no consideration of previous minutes or reports from committees etc except that the Mayor, or in their absence the Deputy Mayor may at their absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business within the provisions of the law.

## **4. Time, Place and Duration of Council Meetings**

### **4.1 Time and Place of Meetings**

The time and place of meetings will be determined by the Chief Executive and notified in the summons.

### **4.2 Duration of Meetings**

4.2.1 At an ordinary meeting of the Council, when two hours have elapsed after the commencement of the meeting a Member of the Council may move without notice that the meeting shall end at a time to be specified in the motion. The Mayor shall, at the conclusion of the debate on the item of business then under consideration, put the matter to the vote if the duration of the meeting will exceed three hours.

4.2.2 If there are other motions or recommendations on the agenda that remain to be dealt with, and require decisions, they will be deferred to the next meeting.

4.2.3 During the process set out in at Rules 4.2.1 and 4.2.2 above the only other motions which may be moved are that a matter be withdrawn or deferred under or that a particular Rule be suspended under Rule 21.1 or that a matter be delegated to the Cabinet, Committee or Sub-Committee for decision or report under Rule 8.10.

4.2.4 When all motions and recommendations have been dealt with, the Mayor will declare the meeting closed.

## **5. Notice of and Summons to Meetings**

5.1 The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. At least five clear working days before a meeting, the Chief Executive will send a summons signed by them to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

## **6. Chair of Meeting**

- 6.1 The person presiding at the meeting may exercise any power or duty of the Mayor. Where these rules apply to Committee and Sub-Committee Meetings, references to the Mayor also include the Chair of Committees and Sub-Committees.

## **7. Quorum**

- 7.1 The quorum of a meeting will be one quarter of the whole number of Councillors or Committee Members (unless stated elsewhere in this constitution) and for Committees shall be no less than three Members. During any meeting if the Mayor counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

## **8. Questions by the Public**

### **8.1 General**

Members of the public who are residents of the Borough or run a business in the Borough may ask one question of the Leader, Portfolio Holder or of the Chair of a Committee at ordinary meetings of the Council.

The total time allocated for questions by the public is limited to 15 minutes in total and no more than 5 minutes per question.

### **8.2 Order of questions**

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

### **8.3 Notice of questions**

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

### **8.4 Number of questions**

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

### **8.5 Scope of questions**

The Chief Executive may reject a question if it:

- 8.5.1 is not about a matter for which the Council has a responsibility or which affects the Borough;
- 8.5.2 is defamatory, frivolous or offensive;

8.5.3 is substantially the same as a question which has been put at a meeting of the Council in the past six months;

8.5.4 requires the disclosure of confidential or exempt information.

8.6 Record of questions

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

8.7 Asking the question at the meeting

The Mayor will invite the questioner to put the question to the Councillor named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

8.8 Supplementary question

There will be no right for a member of the public to put a supplementary question.

8.9 Written answers

Subject to the provisions of paragraph 8.7, any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Councillor to whom it was to be put, will be dealt with by a written answer.

8.10 Reference of question to the Cabinet or a Committee

No discussion will take place on any question, but any Councillor may move that a matter raised by a question be referred to the Cabinet, Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion

**9. Petitions from the Public**

9.1 Notice of Petition

If a resident of the Borough or someone running a business in the Borough wishes to present a petition to a Council meeting, notice must be given at least seven clear working days before the meeting and the petition must have over 1,000 signatures (the signatories must either be resident of the Borough or someone running a business in the Borough). Otherwise a petition must be presented through a Councillor.

9.2 Presentation of Petitions

9.2.1 The petition organiser, or Councillor, will be allowed to present the petition at the meeting. Only one person may speak to present a petition and any such presentation shall be limited to those words heading the presentation. There will be no more than two petitions at any Council meeting.

9.2.2 The Council will then debate the petition for a maximum of 15 minutes at the next Council meeting, unless the Mayor decides that urgent circumstances warrant an immediate debate.

9.2.3 The Mayor will call upon the Portfolio Holder or the Chair of the Committee within whose remit the subject of the petition falls to make a proposal at the next meeting in respect of the petition. Such a proposal shall be to:

- a) take the action the petition requests;
- b) not to take the action requested;
- c) or commission further investigation into the matter by the relevant Portfolio Holder or Committee;
- d) The proposal shall be put to the vote;
- e) The petition organiser will receive written confirmation of this decision which will also be published on the Council's website.

### 9.3 Number of Petitions

At any one meeting no person or organisation may present more than one petition.

### 9.4 Scope of Petitions

The Chief Executive may reject a petition if it:

- 9.4.1 is vexatious, abusive or otherwise inappropriate;
- 9.4.2 relates to a planning decision;
- 9.4.3 relates to a licensing decision;
- 9.4.4 relates to any other matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
- 9.4.5 requires the disclosure of confidential or exempt information;
- 9.4.6 is outside of the Council's scope of business or responsibility.

## **10. Questions by Members and Ward Matters**

### 10.1 Questions on notice at full Council

10.1.1 Subject to Rule 10.2, a Member of the Council may ask:

- a) the Mayor;
- b) the Leader;
- c) the Portfolio Holder or Chair of any Committee or Sub-Committee.

a question on any matter in relation to which the Council has powers or duties or which affects the Borough or in the case of (c) falls within the terms of

reference of the Cabinet or that Committee or Sub- Committee, but is not included within the decisions being considered at the meeting;

10.1.2 The total time permitted for Members' questions and Ward matters will be 1 hour.

10.1.3 There shall be no general debate on questions.

## 10.2 Notice of questions

A Member may ask a question under Rule 10.1 if:

10.2.1 they have given notice of the question in writing or by electronic mail no later than midday three clear working days before the day of the meeting to the Chief Executive; or

10.2.2 if the question relates to urgent matters, they have the consent of the Mayor or Member to whom the question is to be put and the content of the question is given to the Chief Executive by 12 noon on the day of the meeting;

## 10.3 One question per Member

A Member may ask only one question under Rule 10.1 except with the consent of the Mayor of the Council, or the Chair [or Vice Chair] of a Committee or Sub-Committee other than under Rule 10.7.

## 10.4 Order of questions

Questions of which notice has been given under Rule 10.1 will be put to the meeting in the order determined by the Mayor of the Council.

## 10.5 Content of questions

Questions under Rule 10.1 must, in the opinion of the Mayor relate to matters on which the Council has or may determine a policy.

## 10.6 Response

An answer may take the form of:

10.6.1 a direct oral answer at the meeting;

10.6.2 where the desired information is in a publication of the Council or other published work, a reference to that publication; or

10.6.3 where the reply cannot conveniently be given orally, a written answer shall be delivered within 10 clear working days.

## 10.7 Supplementary question

A Member asking a question under Rule 10.1 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.



#### 10.8 Length of speeches

A Member asking a question under Rule 10.1 and a Member answering such a question may speak for no longer than 5 minutes unless the Mayor consents to a longer period.

#### 10.9 Ward matters

10.9.1 A Member may speak on Ward matters if either:

- (a) they have given notice in writing no later than midday three working days before the day of the meeting to the Chief Executive and or
- (b) the Ward matter relates to urgent matters, they have the consent of the Mayor and the content of the Ward matter is given to the Chief Executive by 12 noon on the day of the meeting.

10.9.2 A Member may make only one speech on Ward matters except with the consent of the Mayor of the Council.

10.9.3 Speeches on Ward matters of which notice has been given under this Rule 10.9 will be listed on the agenda in the order determined by the Mayor of the Council.

10.9.4 There shall be no general debate on speeches on Ward matters.

#### 10.10 Length of speeches

A Member speaking on Ward matters may speak for no longer than 5 minutes and the total time allotted to Ward matters in any one meeting shall not exceed 30 minutes unless the Mayor consents to a longer period.

### **11. Motions on Notice**

#### 11.1 Notice

Except for motions which can be moved without notice under Rule 12, written notice of every motion, must be delivered to the Chief Executive not later than 12 noon seven clear working days before the Council meeting at which it is to be considered. Motions received will be recorded and open to public inspection.

#### 11.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order determined by the Mayor.

#### 11.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the Borough.

#### 11.4 One motion per Member

No Member may give notice of more than one motion for any Council meeting, except with the consent of the Mayor.

#### 11.5 Time allowed for motions

The time allowed for consideration of a motion submitted under Rule 11 shall not without the consent of the Mayor exceed 45 minutes, the mover of the motion shall not speak for longer than 10 minutes, the seconder of the motion shall not speak for longer than 5 minutes, subsequent to which the mover of the motion shall have no more 10 minutes to sum up. At the expiry of 45 minutes (from the commencement of the Council's consideration of a motion), the Mayor shall put to the vote, without further discussion, all the questions necessary to dispose of the motion then under debate provided that:

11.5.1 if the speech to be concluded is a speech proposing a motion, the Mayor shall allow the motion to be formally seconded (without comment);

11.5.2 if the speech to be concluded is a speech moving an amendment to the motion, the Mayor shall allow the amendment to be formally seconded (without comment) and the mover of the motion to exercise their right of reply; and

11.5.3 otherwise, the Mayor shall allow the mover of the motion to exercise their right of reply.

Any remaining motions submitted under this Rule shall be deferred to the next ordinary meeting of the Council and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.

### **12. Motions without Notice**

12.1 The following motions may be moved without notice:

12.1.1 to appoint a Chair of the meeting at which the motion is moved;

12.1.2 in relation to the accuracy of the minutes;

12.1.3 to change the order of business in the agenda;

12.1.4 to refer something to an appropriate body or individual;

12.1.5 to appoint a Committee or Member arising from an item on the summons for the meeting;

12.1.6 to receive reports or adoption of recommendations of the Cabinet, Committees or Officers and any resolutions following from them;

12.1.7 to withdraw a motion;

12.1.8 to amend a motion;

12.1.9 to proceed to the next business;

- 12.1.10 that the question be now put to adjourn a debate;
- 12.1.11 to adjourn a meeting;
- 12.1.12 to end a meeting at a time stated in the motion;
- 12.1.13 to suspend a particular Procedure Rules;
- 12.1.14 to exclude the public and press in accordance with the Access to Information Procedure Rules;
- 12.1.15 to not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4; and
- 12.1.16 to give the consent of the Council where its consent is required by this Constitution.

### **13. Rules of Debate**

#### **13.1 No speeches until confirmation of seconder**

Before commencing their speech supporting their motion, the mover of a motion shall indicate to the Mayor, which Councillor is to second the motion, and that Councillor will confirm this to the Mayor, following which the mover will commence their speech. If that Councillor does not confirm this, then the Mayor will ask if any other Councillor will second the motion. If a Councillor confirms this, then the mover can commence their speech. If not, the Mayor will rule that the motion fails. No speeches may be made until after the motion has a confirmed seconder.

#### **13.2 Right to require motion in writing**

Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to them before it is discussed.

#### **13.3 Secunder's speech**

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

#### **13.4 Content and length of speeches**

- 13.4.1 Speeches must be directed to the question under discussion or to a personal explanation or point of order.
- 13.4.2 A speech by the mover of a motion may not exceed 10 minutes without the consent of the Mayor.
- 13.4.3 A speech by the seconder of a motion may not exceed 5 minutes without the consent of the Mayor.
- 13.4.4 The time limit does not apply to speeches by officers in presenting reports or advising the Council on any matter.
- 13.4.5 Immediately following the seconder speaking on a motion or reserving their right to speak until later in the debate, the Mayor shall ask the Leader of the

main opposition group to speak on the motion, or nominate a Councillor to speak next on the motion. A speech under this section may not exceed 5 minutes without the consent of the Mayor.

- 13.4.6 Speeches by ordinary Members (where not stipulated at 11.5) shall not exceed 5 minutes, without the consent of the Mayor.

### 13.5 When a Councillor may speak again

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

- 13.5.1 to speak once on an amendment moved by another Councillor;
- 13.5.2 to move a further amendment if the motion has been amended since they last spoke;
- 13.5.3 if their first speech was on an amendment moved by another Councillor, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- 13.5.4 in exercise of a right of reply;
- 13.5.5 on a point of order; and
- 13.5.6 by way of personal explanation.

### 13.6 Amendments to motions

- 13.6.1 An amendment to a motion must be relevant to the motion and will either be:
- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (b) to leave out words;
  - (c) to leave out words and insert or add others; or
  - (d) to insert or add words,
  - (e) as long as the effect of (b) to (d) is not to negate the motion.
- 13.6.2 Subject to Rule 13.6.6 below, only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- 13.6.3 If an amendment is not carried, other amendments to the original motion may be moved.
- 13.6.4 If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion upon which further speakers may be invited and to which any further amendments are moved.
- 13.6.5 After an amendment has been carried, the Mayor will read out the amended motion before inviting any further speakers upon it as the substantive motion

or accepting any further amendments to it, or if there are none, and after the right to reply has been offered put it to the vote.

13.6.6 The Mayor may determine on the presentation of a report and recommendation being proposed and seconded, that the motions and any subsequent amendments would be debated together. In this case, at the conclusion of the debate, the amendments will be voted on separately in the order in which they were proposed.

13.6.7 Before any speeches on an amendment that has been proposed, the Mayor shall ask the mover and seconder of the original motion or substantive motion whether they are prepared to accept the amendment. If they are, the amendment will be treated as an alteration under Procedure Rules 13.7. If they are not, then the amendment will be debated.

### 13.7 Alteration of motion

13.7.1 A Councillor may alter a motion of which they have given notice in accordance with Procedure Rules 11 with the consent of the meeting. The meeting's consent may be signified without discussion.

13.7.2 A Councillor may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent may be signified without discussion.

13.7.3 Only alterations which could be made as an amendment maybe made.

### 13.8 Withdrawal of motion

A Councillor may withdraw a motion which they have submitted or moved with the consent of the seconder if the debate has begun. No Councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

### 13.9 Rights of reply

13.9.1 At close of a main motion (i.e. un-amended) debate:

- (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.

13.9.2 At close of an amendment debate:

- (a) the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it;
- (b) the mover of the amendment shall also have the right of reply at the close of the debate immediately prior to the closing speech by the mover of the original motion.

13.9.3 At close of substantive motion (i.e. after an amendment to a main motion has been carried) debate:

- (a) the mover of the successful amendment shall have a right of reply at the end of any debate on the substantive motion.

#### 13.10 Motions which may be moved during debate

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

- 13.10.1 to withdraw a motion;
- 13.10.2 to amend a motion;
- 13.10.3 to proceed to the next business;
- 13.10.4 that the question be now put to the vote;
- 13.10.5 to adjourn a debate;
- 13.10.6 to adjourn a meeting;
- 13.10.7 to extend the length of the meeting;
- 13.10.8 to exclude the public and press in accordance with the Access to Information Procedure Rule; and
- 13.10.9 to not hear further a Councillor named under Rule 19.3 or to exclude them from the meeting under Rule 19.4.

#### 13.11 Closure motions

13.11.1 A Councillor may move, without comment, the following motions at the end of a speech of another Councillor:

- (a) to proceed to the next business;
- (b) that the question be now put;
- (c) to adjourn a debate; or
- (d) to adjourn a meeting.

13.11.2 If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

13.11.3 If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting his/her motion to the vote.

13.11.4 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, they will give the mover of the original motion or an amendment, or a substantive motion (as the case may be) a right of reply and then put the procedural motion to the vote.

### **13.12 Point of order**

A Councillor may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules or the law. The Councillor must indicate the order or law and the way in which they consider it has been broken. The ruling of the Mayor on the matter will be final.

### **13.13 Personal explanation**

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

## **14. Previous Decisions and Motions**

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

A motion or amendment to rescind a decision made at a meeting of Council within the past 6 months cannot be moved unless the notice of motion is signed by at least 10 Members or in the case of a committee, 25% of the Committee's membership

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

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past 6 months cannot be moved unless the notice of motion or amendment is signed by at least 10 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for 6 months.

## **15. Voting**

### **15.1 Majority**

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

### **15.2 Mayor's casting vote**

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

### **15.3 Method of voting**

Unless a recorded vote is demanded under Rule 15.4 the Mayor will take the vote by show of hands or, if there is no dissent, by the affirmation of the meeting.

### **15.4 Recorded vote**

If 5 Members present at the meeting at any time request the names for and against the motion or amendment or abstaining from voting will be taken down in writing and

entered into the minutes. Unless in the case of Committees or Cabinet where a request by 2 Members present will be sufficient to require a recorded vote to be taken.

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

Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

#### **15.6 Recorded votes at budget meetings**

A recorded vote is required when Members take formal decisions about expenditure on local services and Council tax levels for the year ahead.

#### **15.7 Voting on appointments**

If there are more than 2 people nominated for any position to be filled and there is not a clear majority of votes in favour of 1 person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

### **16. Minutes**

#### **16.1 Signing the minutes**

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

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

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

#### **16.3 Form of minutes**

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

### **17. Record of Attendance**

#### **17.1 All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.**



## **18. Exclusion of Public and Press**

- 18.1 Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in this Constitution or Rule 20 (Disturbance by Public).

## **19. Members' Conduct**

### **19.1 Speaking at meetings**

When a Member speaks at full Council they must address the meeting through the Mayor. If more than one Member signifies their intention to speak, the Mayor will ask one to speak. Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

### **19.2 Mayor speaking**

When the Mayor speaks during a debate, any Member speaking at the time must stop.

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

If a Member persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

### **19.4 Member to leave the meeting**

If the Member continues to behave improperly after such a motion is carried, the Mayor may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

### **19.5 General disturbance**

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

## **20. Disturbance by the Public**

### **20.1 Removal of member of the public**

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

### **20.2 Clearance of part of meeting room**

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

## **21. Suspension and Amendment of Procedure Rules**

### **21.1 Suspension**

The following Rules may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present: Rule 4.2, and Rules 8 to 14. Suspension can only be for the duration of the meeting.

#### **21.2 Amendment**

Any motion to add to, vary or revoke these Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

### **22. Application of these Rules Committees and Sub-committees**

22.1 All of these Rules apply to meetings of full Council. Only Rules 4 to 7, and Rules 12 to 21 apply to meetings of the Cabinet, Committees, Sub-Committees or Joint-Committees (with 'Mayor' being read as 'Chair' and 'Council meeting' being read as the last meeting of the relevant Committee or Sub-Committee or Joint Committee). The application of these Rules to meetings of a Committee and Sub-Committees is subject to any additional rules which may also apply to a specific Committee or Sub-Committee.

### **23. Appointment of Substitute Members on Council Bodies**

23.1 These substitution Rules shall not apply to meetings of the Cabinet or Committees of the Cabinet, or

23.2 Subject to any other restrictions provided elsewhere in this Constitution or under the law, any Member of the Council will be permitted to act as a substitute on a Committee or Sub-Committee of the Council, subject to their having completed any training required for Members of the Committee or Sub-Committee to which they are substituted.

23.3 A Member of a Committee or Sub-Committee of the Council may appoint a substitute Member, subject to Rule 23. The appointing Member shall notify Democratic Services of the substitution.

23.4 In order to be eligible to sit as substitutes on regulatory or quasi-judicial Committees, Sub-Committees or panels established by the Council, Members must have received formal training in relevant procedures and the law.

23.5 Substitute Members will have all the powers and duties of any ordinary Member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

23.6 Substitute Members may attend meetings in that capacity only:

23.6.1 to take the place of the ordinary Member for whom they are designated substitute;

23.6.2 where the ordinary Member will be absent for the whole of the meeting;

- 23.6.3 if there are named substitutes, then the substitute must be a named substitute;
- 23.6.4 The relevant Committee or Sub- Committee of the Council must be notified of the substitute prior to the commencement of the meeting of the relevant Committee or Sub- Committee of the Council.

## **24. Emergency Powers**

- 24.1 In consultation with the Leader of the Council and where possible the Leader of the opposition, the Chief Executive has the power to authorise the taking or carrying out of action, notwithstanding anything in the Council's Procedure Rules, Financial Regulations all other delegations, where they consider that circumstances exist that make it expedient or necessary for action to be taken prior to the time when such action could be approved through the normal Council procedures. A report on such action, and the circumstances justifying the exercise of the delegated powers, shall be made to the next meeting of the Council as appropriate.

## **25. Election of Members and Resignation of Offices by Members**

- 25.1 The regular election of Members will be held on the first Thursday in May every four years. The terms of office of Members will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.
- 25.2 For the purpose of clarity, if the Mayor, or the Deputy Mayor, wish to resign their offices (under sub-sections (2) of sections 3 and 5 of the Local Government Act 1972 respectively) and continue as ordinary Members of the Council, they shall do so in writing, and such resignation shall be delivered to the Chief Executive and shall be accepted by the Council as operative from the moment when it was delivered to the Chief Executive.
- 25.3 If the Leader of the Council, the Deputy Leader of the Council, the Leader or Deputy Leader of any political group or the Chair or Vice-Chair of a Committee wishes to resign their office they should do so in writing in accordance with Rule 25.2 above and at the same time, as applicable, shall deliver written communication of their resignation to the Leader and the Cabinet, procedure rule The Deputy Leader of the Council shall, at the same time as delivering to the Chief Executive a written communication as to their resignation, deliver a communication in similar terms to the Leader of the Council.
- 25.4 The resignation of the Chair or Vice-Chair of a Committee shall be reported to the next meeting of the Council and / or the Committee concerned and successors shall be appointed by the Council.

## **26. Filming, Videoing, Streaming, Photography and Audio Recording**

- 26.1 The filming, streaming and recording of public meetings of the Council is allowed, however it is required to be in accordance with the Openness of Local Government

Bodies Regulations 2014. This does not permit any person to provide an on-going audio commentary while the meeting is on-going. The Council Procedure Rules in relation to disrupting a meeting apply and in particular there should be no flash photography, requests made during the meeting that people speak up for the purposes of the recording, requests for comments previously made to be repeated for the purposes of the recording; this list is non-exclusive and in addition to the other provisions in relation to the disrupting of meetings and in no way fetters the Mayor's discretion to determine if behaviour is disrupting a meeting of the Authority.

# **Broxtowe Borough Council Constitution**

## **Chapter 2 – Part 3**

### **The Executive (Cabinet)**

## **Chapter 2 Part 3: THE EXECUTIVE (CABINET)**

### **3.1 Rules**

- 3.1.1 The following Rules apply to the Cabinet, a Committee, Sub-Committee or Joint Committee of the Cabinet:-
- i. Council Procedure Rules 4 to 7 and Rules 12 to 21
  - ii. The Cabinet Procedure Rules
  - iii. The Access to Information Procedure Rules.

### **3.2 The Leader**

- 3.2.1 The Leader is elected by full Council and holds office for a period of four years from the date of their election at the Annual Meeting of the Council or earlier if they:
- i. Resign from the office of Leader; or
  - ii. Are no longer a Councillor; or
  - iii. Are removed from office by a resolution of the Council.
- 3.2.2 The Deputy Leader will assume responsibility of the Leader where there is a vacancy until the next Council Meeting, where the Council will elect a Leader.
- 3.2.3 Where both the Leader and Deputy Leader cease to hold office at the same time, the Council's Mayor shall call a meeting of Council as soon as possible to elect a new Leader.

### **3.3 Functions and Responsibilities**

- 3.3.1 The Leader is responsible together with the rest of the Executive for those functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.
- 3.3.2 Only the Leader will exercise the following functions -
- i. Appointment of the Deputy Leader;
  - ii. Appointment of the Cabinet;
  - iii. Allocation of portfolio responsibilities;

- iv. Producing and maintaining the Scheme of Delegation set out in Chapter 3 Part 1 detailing who will discharge functions;
- v. To provide leadership to the Cabinet and chair Cabinet meetings;
- vi. To ensure that Cabinet Members work collaboratively with the Council's Overview and Scrutiny Committee, to support the Council's Scrutiny function and to carefully consider the recommendations of the Overview and Scrutiny Committee in the formulation and development of the Council policy;
- vii. To ensure that Members of Cabinet abide by the Codes and Protocols set out in the Constitution;
- viii. To ensure Members of the Cabinet receive information, training and regular updates, to take account of changes in the law, policy and procedure and to encourage development and continuous improvement;
- ix. The Leader will provide strategic leadership to the Council to implement Council's policy and budget decisions;
- x. To ensure effective arrangements for consultation and community planning and to lead in developing the Council's partnerships with other organisations;
- xi. To ensure effective communication and explanation of all Executive/Cabinet decisions and recommendations to Council;
- xii. To ensure that the decisions of Cabinet are made within the budgetary framework and financial limits set by the Council;
- xiii. To ensure the preparation and publication of a forward plan, in line with statutory requirements, which sets out the details of any matters which they consider are likely to be the subject of a Key Decision;
- xiv. To be the main Member representative of the Council, with other Portfolio Holders in dealing with the community, business, voluntary sector and other local and national organisations, other than in respect of ceremonial events;
- xv. To ensure effective liaison with other political groups within the Council;
- xvi. To represent the Council on relevant outside organisations, regional and national bodies, partnerships and working groups and to pursue matters of interest to the Council and its communities;

- xvii. To work with Portfolio Holders to consider and agree actions to ensure effective delivery of services within their portfolios against the agreed policies of the Council, and to ensure the delivery of the Cabinet's responsibilities and the delivery of objectives as outlined in the Corporate Plan;
- xviii. To be responsible for their own personal development and undergo appropriate development and continuous improvement;
- xix. To provide mentoring and support to Cabinet Members.

### **3.4 The Deputy Leader**

- 3.4.1 The Deputy Leader will be a Councillor appointment to the position by the Leader.
- 3.4.2 If for any reason the Leader is unable to act, or the office of the Leader is vacant, the Deputy Leader must act and exercise all functions reserved to the Leader in their absence.
- 3.4.3 If for any reason the Leader and Deputy Leader are unable to act, or their offices are vacant, the remaining Cabinet Members may act collectively or appoint an interim Leader until the next Council meeting where a new Leader will be elected.

### **3.5 The Cabinet**

- 3.5.1 The Cabinet comprises the Leader, the Deputy Leader and up to eight other Councillors (Cabinet Members) appointed to the Cabinet by the Leader.
- 3.5.2. The Leader appoints the Deputy Leader and also six Cabinet Members as Portfolio Holders who have full voting rights on the Cabinet's business. The remaining two Cabinet Members are 'without portfolio' but have voting rights on the Cabinet's business.

### **3.6 Functions & Responsibilities**

- 3.6.1 The Cabinet discharges those functions of a local authority specified in local government legislation as the Executive functions of an authority to be exercised by its Executive or Cabinet; including functions that may be (but need not be) the responsibility of an Executive or Cabinet referred to in Schedule 2



of the Local Authorities (Functions and Responsibilities) (England) Regulations 2007. No functions of the Cabinet (other than those required under the law to be exercised by the Leader) shall be exercised other than by way of a meeting of the Cabinet unless an express delegation is in place.

- 3.6.2 The Cabinet determines those matters within the Terms of Reference of the Cabinet Portfolios set out below on the basis of collective decision-making. Individual Portfolio Holders do not have delegated authority to determine matters within their remit.

### **3.7 Functions Reserved to the Cabinet**

The following functions are reserved to the Cabinet:-

- 3.7.1 To determine responses on behalf of the Council within the remit of the Portfolios to any government, local authority or other consultation and the launch of consultation exercises on behalf of the Council, except for day-to-day technical and operational consultations which amount to Administrative Decisions made by Officers.
- 3.7.2 To consider establishment changes referred for decision outside delegated authority.

### **3.8 The Portfolios**

The Cabinet Portfolios are:-

- 3.8.1 Resources and Personnel Policy
- 3.8.2 Economic Development & Asset Management
- 3.8.3 Housing
- 3.8.4 Leisure & Health
- 3.8.5 Environment & Climate Change
- 3.8.6 Community Safety

### **3.9 The Portfolio General Terms of Reference**

Matters within the General Terms of Reference of the Portfolios and the specific Terms of Reference of each Portfolio are determined by the Cabinet collectively. Portfolio

Holders are not delegated authority to determine any matter within the remit of their Portfolio. The general Terms of Reference for each Portfolio are:-

- 3.9.1 To provide strategic direction to any delivery body established by the Council;
- 3.9.2 To keep the policies of their portfolio under review;
- 3.9.3 To consider and recommend the letting of contracts to third parties where the value of the contract exceeds delegation limits as set out in procurement Procedure Rules. (where within Budget);
- 3.9.4 To identify and recommend opportunities for future income generation and cost savings;
- 3.9.5 To examine further procurement and collaborative working opportunities with the private sector and other local authorities;
- 3.9.6 To recommend responses on behalf of the Council to any government, local authority or other consultation;
- 3.9.7 To consider and recommend ways of achieving reductions in ongoing financial commitments through a review of essential and desired services and service levels.

### **3.10 Resources & Personnel Policy Portfolio**

The Resources and Personnel Policy Portfolio specific Terms of Reference are:-

- 3.10.1 To keep the Council's resources under review.
- 3.10.2 To consider and recommend to the Council the level of Council house rents, service charges and the level of Council tax.
- 3.10.3 To consider and recommend to the Council the overall capital programme and revenue budget.
- 3.10.4 To consider and recommend requests for supplementary capital and revenue estimate.
- 3.10.5 To consider and recommend write off debts in excess of the current limit for delegation contained within Financial Regulations.
- 3.10.6 To consider and recommend loan repayment postponements.
- 3.10.7 To consider and recommend the use of the Insurance Fund.
- 3.10.8 To consider and recommend the appointment of the Council's bankers.

- 3.10.9 To consider and recommend virement between budget heads above any limits prescribed in Financial Regulations.
- 3.10.10 To consider and recommend the letting of contracts to third parties where the value of the contract exceeds delegation limits as set out in procurement Procedure Rules.
- 3.10.11 To consider and recommend the means to attract external sources of funding into the Borough across the whole range of the Council's services and Statutory functions.
- 3.10.12 To consider in detail those areas of the revenue budgets affecting the General Fund and Housing Revenue Account (HRA) which are judged to be of the highest risk and monitor the position of the Council in relation to those areas.
- 3.10.13 To examine in detail the proposals for budgetary control and consider such plans as are deemed to be required to bring about necessary controls, especially on the effects on employees and services.
- 3.10.14 To receive at regular intervals information as to revenue and capital budgetary monitoring.
- 3.10.15 To receive and recommend responses to updates on government and external funding issues which have a direct effect on the budgetary position.
- 3.10.16. To receive regular updates on welfare benefit reforms and the effects on Council tenants and Council tax payers.
- 3.10.17 To monitor the effects of the countywide business rates pooling arrangement on the finances of the Council.
- 3.10.18 To review the People Strategy and any other policy or strategy concerning human resources.
- 3.10.19 To consider and identify issues relating to the Council's establishment structure and employees, including significant changes to local terms and conditions and the discretionary elements of both national and local conditions of service.
- 3.10.20 Consideration of the draft Pay Policy before submission to Council.
- 3.10.21 To receive reports on post-entry training and development for employees including apprenticeships and Members and to consider and recommend the Training and Development Policy.
- 3.10.22 Consider and recommend the Job Evaluation Scheme and pay structure arising from it, to Council, as appropriate.

- 3.10.23 To receive recommendations from the Local Joint Consultative Committee.
- 3.10.24 To consider functions conferred on the Council by part 4 of the Local Government and Public Involvement in Health Act 2007 in respect of the receipt of petitions and the institution, conduct and determination of a Community Governance review.
- 3.10.25 To consider the Health and Safety at Work Policy.
- 3.10.26 To develop, any other policy (other than those policy documents reserved to the full Council) within the remit of the Portfolio and without prejudice to the generality of the foregoing to develop.
- 3.10.27 To consider and develop the Emergency Plan.
- 3.10.28 To consider and recommend the Information Technology Strategy.
- 3.10.29 To consider and recommend the Asset Management Strategy.
- 3.10.30 To consider and recommend the Council's Equality and Diversity Strategy and action plan and monitor the implementation of it.
- 3.10.31 To consider and recommend the Capital Strategy.
- 3.10.32 To consider and recommend the Sustainable Communities Strategy.
- 3.10.33 To consider and recommend other such policies and strategies as Council may from time to time decide should be adopted.
- 3.10.34 To consider and monitor progress on the Corporate Plan.
- 3.10.35 To consider and recommend in relation to the exercise of the Council's shareholder / Member function in respect of its wholly or partly owned companies.

### **3.11 Economic Development & Asset Management Portfolio**

The Economic Development & Asset Management Portfolio specific Terms of Reference are:-

- 3.11.1 To monitor progress on economic development, regeneration and levelling up strategies
- 3.11.2 To monitor the impact of significant external projects on the Council's services.

- 3.11.3 To develop, any other policy (other than those policy documents reserved to the full Council) within the remit of the portfolio and without prejudice to the generality of the foregoing to develop.
- 3.11.4 In association with the Planning Committee to propose matters of planning policy to the Council in accordance with Part II of the Town and Country Planning Act 1990.
- 3.11.5 To consider and recommend authorisation of the supplementary planning documents, development briefs and other documents under the local development scheme.
- 3.11.6 To consider and recommend the means to attract external sources of funding into the Borough across the whole range of the Council's services and Statutory functions.
- 3.11.7 To consider all matters relating to the Strategic Location for Growth and the wider area including the boundaries of the site, the retention of open space, the promotion of employment, integration with the proposed and existing infrastructure including road improvements, the tram and rail links and the suitable mix of development within the site.
- 3.11.8 To consider and make recommendations to acquire, appropriate and dispose of land or property and of interests in or over land.
- 3.11.9 To consider and make recommendations to let, negotiate and settle leases and rents for Council owned land or property. (excluding Council Houses).
- 3.11.10 To consider and make recommendations to the policies with regards to the Council's land, buildings and assets.
- 3.11.11 To consider and recommend investment in, improvement of and carbon reduction of the Council's housing stock.
- 3.11.12 To consider and recommend housing building schemes.
- 3.11.13 To consider and recommend the making of compulsory purchase orders and carry out all procedures.
- 3.11.14 To consider and recommend the making of conservation areas.
- 3.11.15 To consider and recommend supplementary planning documents, development briefs and other documents under the local development scheme.
- 3.11.16 To consider and recommend directions under Article 4 Town and Country Planning (General Permitted Development) order 1995.

- 3.11.17 The portfolio shall lead on plans for strategic development, economic development, levelling up and regeneration throughout the area.
- 3.11.18 To consider and recommend policies for Car Parking.
- 3.11.19 To consider and recommend in relation to the exercise of the Council's shareholder / Member function in respect of its wholly or partly owned companies.

### **3.12 Housing Portfolio**

The Housing Portfolio specific Terms of Reference are:-

- 3.12.1 To consider and recommend the Council policy relating to sales of Council houses.
- 3.12.2 To consider and recommend Council policy relating to council house rent collection.
- 3.12.3 To consider and recommend the policy to apply to the provision of funds for aids and adaptations to Council properties.
- 3.12.4 To consider and recommend housing buy backs.
- 3.12.5 To identify surplus housing assets or redevelopment potential within the housing stock.
- 3.12.6 To develop and recommend any other policy (other than those policy documents reserved to the full Council) within the remit of the portfolio and without prejudice to the generality of the foregoing to develop.
- 3.12.7 To consider and recommend the Homelessness Strategy.
- 3.12.8 To consider and recommend policies for the management of all buildings and lands held for housing purposes.
- 3.12.9 To consider and recommend the policy for allocating Council housing stock.
- 3.12.10 Any other such policies and strategies as Cabinet may from time to time decide should be developed.
- 3.12.11 To recommend the provision of assistance to Housing Associations, privately let housing accommodation, and payments to enable people to access such accommodation as the law may enable.

- 3.12.12 To recommend the declaration of renewal areas, criteria for discretionary housing facilities grants and provision of other grants as the law may permit from time to time.
- 3.12.13 To consider and recommend applications for aids and adaptations to Council housing above £30,000.

### **3.13 Leisure & Health Portfolio**

The Leisure & Health Portfolio specific Terms of Reference are:-

- 3.13.1 To consider and recommend policies to promote health, artistic, sporting and cultural activities within the Borough.
- 3.13.2 To develop, any other policy (other than those policy documents reserved to the full Council) within the remit of the portfolio and without prejudice to the generality of the foregoing to develop.
- 3.13.3 To consider and recommend policies for the management of all buildings and lands held for leisure purposes including leisure centres and museums.
- 3.13.4 To consider and recommend the arts and events and leisure strategies.
- 3.13.5 To consider and recommend the policy for events taking place in parks, open spaces and recreation grounds owned or managed by the Council.
- 3.13.6 Review and monitor the Council's arrangements that each Council service area has in place to respond to individuals, who may have mental health issues and need to access Council Services.
- 3.13.7 To consider and recommend twinning and friendship activities.
- 3.13.8 To consider and recommend events taking place in parks, open spaces and recreation grounds owned or managed by the Council.
- 3.13.9 Recommend such policies and action plans as are necessary to promote the physical and mental health of the population of Broxtowe.
- 3.13.10 Work in partnership with partner organisations and partnership structures including Nottinghamshire County Council Public Health department; integrated care systems such as the local Place based partnership and local primary care networks as well as the organisations represented within the Broxtowe partnership, to promote the health of the local population.

- 3.13.11 Develop and recommend plans and policies to prevent ill health occurring and promote the wider determinants of health.
- 3.13.12 Work to promote physical activity across Broxtowe.
- 3.13.13 Come forward with proposals to reduce loneliness and isolation, and promote social cohesion across Broxtowe.
- 3.13.14 Develop and work to implement plans to enable people to live well with dementia in Broxtowe.
- 3.13.15 Work to develop action and plans to reduce health inequalities.
- 3.3.16 To consider and recommend the letting of contracts to third parties where the value of the contract exceeds delegation limits as set out in procurement procedure rules (where within budget).

### **3.14 Environment & Climate Change Portfolio**

The Environment & Climate Portfolio Specific Terms of Reference are: -

- 3.14.1 To develop, any policy (other than those policy documents reserved to the full Council) within the remit of the portfolio and without prejudice to the generality of the foregoing to develop -
- 3.14.2 To consider and recommend management and recycling arrangements and policies.
- 3.14.3 To consider and recommend policies in respect of street cleansing and the removal of litter.
- 3.14.4 To consider and recommend policies regarding energy.
- 3.14.5 To consider and recommend policies regarding air quality.
- 3.14.6 To consider and recommend policies for allotments and cemeteries.
- 3.14.7 To consider and recommend the Energy Conservation Strategy.
- 3.14.8 To consider and recommend the Waste Management Strategy.
- 3.14.9 To consider and recommend policies in respect of stray dogs.
- 3.14.10 To consider and recommend Contaminated Land Strategy.
- 3.14.11 To consider and recommend applications for and amendments to waste transfer stations.



- 3.14.12 To lead on the development and implementation of the Climate Change Plan for Broxtowe Borough Council.
- 3.14.13 To take the climate change agenda forward and ensure that all departments are engaged in this process.
- 3.14.14 To lead on development and implementation of the Travel Plan.
- 3.14.15 To feed into the Nottinghamshire and Derbyshire Local Authority Energy Partnership, Nottinghamshire Climate Change Partnership and Broxtowe Borough Partnership.
- 3.14.16 To work in partnership with service providers to identify opportunities for the delivery of services, avoid duplication and maximise resources.
- 3.14.17 To keep under review the functions under the Environmental Protection Act 1990.
- 3.14.18 To consider and recommend all issues relating to environmental improvements.

### **3.15 Community Safety Portfolio**

The Community Safety Portfolio specific Terms of Reference are:-

- 3.15.1 To develop, any other policy (other than those policy documents reserved to the full Council) within the remit of the portfolio and without prejudice to the generality of the foregoing to develop.
- 3.15.2 To consider and recommend policies regarding transport, including the powers contained in the LG(MP)A 1978 in relation to hackney carriage and private hire licensing vehicles, but save those other functions in respect of hackney carriage and private hire vehicles delegated to the Licensing and Appeals Committee.
- 3.15.3 To consider and recommend Anti-Social Behaviour Strategy and action plan;
- 3.15.4 To consider and recommend community safety policies as may be needed from time to time to ensure the safety of the population.
- 3.15.5 To consider, recommend and monitor the implementation of safeguarding and violence, serious violence and domestic violence policies and sanctuary scheme.
- 3.15.6 To consider and recommend the adoption of Local Strategic Partnership strategies and policies.

- 3.15.7 To consider and recommend Public protection strategies.
- 3.15.8 To consider and recommend the adoption of strategies and policies arising from the Anti-Social Behaviour, Crime and Policing Act 2014 including public space protection orders and fixed penalty notices and powers introduced by any subsequent legislation which offers tools and measures to regulate undesirable activity and behaviour.
- 3.15.9 To consider and recommend the adoption of Policies under the Scrap Metal Dealers Act 2013.
- 3.15.10 To consider and recommend enforcement under the Sunday Trading Act 1994.
- 3.15.11 To receive reports in relation to Nottinghamshire Police and Crime Panel.
- 3.15.12 To consider and recommend applications for vehicle operator's licences required for the Council's business.
- 3.15.13 To consider and recommend authorising objections to vehicle operator licence applications made by third parties.

### **3.16 The Policy Advisory Committee**

- 3.16.1 The Leader has established the Policy Advisory Committee, as a Committee of the Cabinet. The Policy Advisory Committee supports and assists the Cabinet in the development of policies and strategies including resources and personnel policy, economic development and asset management, housing, leisure and health, environment and climate change and community safety.
- 3.16.2 The Policy Advisory Committee may make recommendations to the Cabinet but has no decision-making powers.

### **3.17 Other Committees**

- 3.17.1 The Leader may establish such other Cabinet Committees as may be required from time to time, the terms of reference and membership of which shall be determined by the Leader.

# **Broxtowe Borough Council Constitution**

## **Chapter 2 – Part 4**

### **Executive (Cabinet) Procedure Rules**

## **Chapter 2 Part 4: EXECUTIVE (CABINET) PROCEDURE RULES**

### **1. HOW DOES THE CABINET OPERATE?**

#### **1.1 Who may make Executive decisions?**

The arrangements for the discharge of Executive functions are determined by the Leader. The Leader has determined that the Cabinet will make decisions collectively unless otherwise provided for elsewhere in this constitution.

#### **1.2 Delegation by the Leader**

Following the annual meeting of the Council, the Monitoring Officer, at the direction of the Leader, will draw up a written record of Executive delegations made by the Leader for inclusion in the Scheme of Delegation Chapter 3 Part 1 of this Constitution. The Scheme of Delegation will include the following information about Executive functions in relation to the coming year:

- 1.2.1 the extent of any authority delegated to the Cabinet including details of the limitation on its authority;
- 1.2.2 the terms of reference and constitution of any Cabinet Committees as the Leader appoints and the names of Cabinet Members appointed to them;
- 1.2.3 the nature and extent of any delegation of Executive functions to any other authority or any joint arrangements; and
- 1.2.4 the nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made.

#### **1.3 Sub-delegation of Executive functions**

- 1.3.1 Where the Cabinet or a Committee is responsible for an Executive function, they may delegate it further unless otherwise directed by the Leader;
- 1.3.2 Where Executive functions have been delegated, that fact does not prevent the discharge of the delegated functions by the person or body who delegated them.

#### 1.4 The Council's scheme of delegation and Executive functions

1.4.1 The Leader may amend the Scheme of Delegation relating to Executive functions at any time. In doing so the Leader will give 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 or Committee. The Monitoring Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

1.4.2 Where the Leader seeks to withdraw a delegation notice will be deemed to be served when the notice is served on the relevant person, body or Committee chair.

#### 1.5 Conflicts of Interest

1.5.1 Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members at Chapter 5 Part 1 of this Constitution.

1.5.2 If any Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

#### 1.6 Cabinet meetings – when and where?

The frequency and timing of meetings of the Cabinet will be determined by the Leader. The Cabinet will meet no less than eleven times each municipal year. Cabinet meetings will be held at the Council's Offices or another location to be agreed by the Leader.

#### 1.7 Public or private meetings of the Cabinet?

The Cabinet will hold its meetings in public, except in the circumstances set out in paragraphs (a) to (c) of Regulation 4(2) of the Local Authorities (Executive Arrangements) (meetings and Access to Information) (England) Regulations 2012. Briefly, these circumstances cover:

1.7.1 confidential information;

1.7.2 exempt information;

1.7.3 disorderly conduct.

## 1.8 Quorum

1.8.1 The quorum for a meeting of the Cabinet shall be 3.

1.8.2 The quorum for a meeting of a Committee of the Cabinet shall be 3 including at least 1 Portfolio Holder.

## 1.9 How are decisions to be taken by the Cabinet?

1.9.1 Executive decisions made by the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Chapter 2 Part 5 of this Constitution.

1.9.2 Where Executive decisions are delegated to a Committee of the Cabinet, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## 2. HOW ARE CABINET MEETINGS CONDUCTED?

### 2.1 Who presides?

The Leader will preside at any meeting of the Cabinet or its Committees at which they are present. In the Leader's absence, the Deputy Leader will preside. In the absence of the Deputy Leader, then a person appointed to do so by those present shall preside.

### 2.2 Who may attend?

These details are set out in the Access to Information Procedure Rules in Chapter 2 Part 5 of this Constitution.

### 2.3 What business?

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

2.3.1 consideration of the minutes of the last meeting;

2.3.2 declarations of interest, if any;

2.3.3 matters referred to the Cabinet (whether by the Overview and Scrutiny Committee or the Council) for reconsideration by the Cabinet in accordance with the provisions of the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out respectively at Chapter 2 Part 7 and Chapter 2 Part 6 of this Constitution;

2.3.4 consideration of reports from the Overview and Scrutiny Committee; and

- 2.3.5 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 Chapter 2 Part 5 of this Constitution.

## 2.4 Consultation

All reports to the Cabinet from any Member of the Cabinet or an Officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation undertaken with stakeholders and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## 2.5 Who can put items on the Executive agenda?

- 2.5.1 The Leader will decide upon the schedule for meetings of the Cabinet. The Leader may put any matter on the agenda of any Cabinet meeting whether or not authority has been delegated to the Cabinet, a Committee of the Cabinet or any Member or Officer in respect of that matter.
- 2.5.2 Any Member of the Cabinet may require the Monitoring Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration.
- 2.5.3 The Head of Paid Service, the Monitoring Officer and/or the Section 151 Officer may include an item for consideration on the agenda of a Cabinet meeting and may require that such a meeting be convened in pursuance of their statutory duties.
- 2.5.4 In other circumstances, where any two of the Statutory Officers, Chief Executive, Monitoring Officer or Section 151 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 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 called at which the matter will be considered.

# **Broxtowe Borough Council Constitution**

## **Chapter 2 – Part 5**

### **Access to Information Procedure Rules**



## **Chapter 2 Part 5: ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

These Rules apply to all meetings of the Council, the Cabinet, the Overview and Scrutiny Committee, Governance, Audit & Standards Committee, the Licensing & Appeals Committee, Planning Committee, Bramcote Bereavement Services Joint Committee, Senior Officer Employment Committee and any Sub-Committees. Additional rules providing for access to information may also apply to any given Committee / Sub-Committee.

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

These Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law nor do these Rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000, the Data Protection Act 2018 and the UK GDPR.

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

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these Rules.
- 3.2 If a member of the public or press interrupts the proceedings at any meeting the Chair may warn them. If they continue the interruption and a warning has been given, the Chair may order their removal from the meeting place.
- 3.3 In the event of a general disturbance in any part of the meeting place open to the public, the Chair may order that part to be cleared.
- 3.4 If the Chair considers the orderly dispatch of business impossible, they may without question adjourn the meeting.
- 3.5 The above powers of the Chair are in addition to any other power vested in them.

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

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at the Council Offices Foster Avenue, Beeston, Nottingham, NG9 1AB and on its website at [www.broxtowe.gov.uk](http://www.broxtowe.gov.uk).

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

- 5.1 The Members of the Overview and Scrutiny Committee shall be provided with full copies of the agenda and reports presented to the Cabinet including those containing exempt and/or confidential information.
- 5.2 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and available on the Council's website at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda (where reports are prepared after the summons has been sent out, the Monitoring Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors).

## **6. SUPPLY OF COPIES**

### **6.1 Supply of Copies at the Meeting**

The Council will make available to the public present at a meeting a reasonable number of copies of the agenda and of the reports for the meeting (save during any part of the meeting to which the public are excluded)

### **6.2 The Council will supply copies of:**

- 6.2.1 any agenda and reports which are open to public inspection;
- 6.2.2 any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- 6.2.3 if the Monitoring Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item.

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

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

- 7.1 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;
- 7.2 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;
- 7.3 the agenda for the meeting; and
- 7.4 reports relating to items when the meeting was open to the public.

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

The Officer preparing a report for a meeting will set out in such report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

8.1.1 disclose any facts or matters on which the report or an important part of the report is based; and

8.1.2 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),

### **8.2 Public inspection of background papers**

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

## **9. SUMMARY OF PUBLIC'S RIGHTS**

9.1 A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and made available to the public at the Council Offices at Foster Avenue, Beeston, Nottingham, NG9 1AB and on the Council's website: [www.broxtowe.gov.uk](http://www.broxtowe.gov.uk).

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

### **10.1 Extent of exclusion**

The public may only be excluded under Rule 10.3 or 10.4 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

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

### **10.3 Confidential information – requirement to exclude public**

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

#### 10.4 Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Such a decision to exclude the public is to be made by resolution of the relevant decision making body.

#### 10.5 Meaning of confidential information

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

#### 10.6 Meaning of exempt information

Exempt information means information falling within the following categories (subject to any qualification)

10.6.1 Information relating to any individual;

10.6.2 Information which is likely to reveal the identity of an individual;

10.6.3 Information relating to the financial or business affairs of any particular person (including the authority holding that information);

10.6.4 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;

10.6.5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;

10.6.6 Information which reveals that the authority proposes

- to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
- to make an order or direction under any enactment;

10.6.7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime;

10.6.8 The descriptions of exempt information set out above are subject to the following qualifications:

- a) Information falling within paragraph 3 10.6.3 is not exempt information by virtue of that paragraph if it is required to be registered under –
  - the Companies Act 2006
  - the Friendly Societies Act 1974
  - the Friendly Societies Act 1992

- the Industrial and Provident Societies Acts 1965 to 1978
  - the Building Societies Act 1986
  - the Charities Act 2011.
- b) Information is not exempt 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
- c) Information which –
- (1) falls within any of 10.6.1 – 10.6.8 above: and
  - (2) is not prevented from being exempt by virtue of paragraph (b) or (c) above,
- is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**Note:** The Public Interest Test

The public interest test in the Freedom of Information (FOI) Act 2000 is specifically defined –

The Authority must release the information unless "*in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information*".

The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.

There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations.

There is a distinction between the public interest and what merely interests the public.

- Does it further the understanding of and participation in the public debate of issues of the day?
- Does it promote accountability and transparency by public authorities for decisions taken by them or in the spending of public money?
- Does it allow individuals and companies to understand decisions made by public authorities affecting their lives?
- Does it bring to light information affecting public health and public safety?

## **11. Exclusion of Access by the Public to Reports**

11.1 If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked

“Not for publication” together with the category of information likely to be disclosed. If the information is exempt information, the category of the exempt information must also be marked on the report.

- 11.2 The relevant body is requested in the agenda to confirm the action set out in 11.1 by resolution. Arrangements will be made to recall the press and public immediately should the motion not be passed.
- 11.3 If the matter is considered in public, any related report will also become available to the public.

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

- 12.1 Rules 13 – 26 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 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A Key Decision is as defined at Chapter 1 Part 2 of this Constitution.

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

### **13.1 Notice of Key Decision**

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

- 13.1.1 a notice (called here a "Notice of Key Decision") has been published in connection with the matter in question;
- 13.1.2 at least 28 clear days have elapsed since the publication of the "Notice of Key Decision"; and
- 13.1.3 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).

### **13.2 Contents of Notice of Key Decision**

The Notice of Key Decision will state by whom the Key Decision is to be taken in the course of the discharge of an Executive function. It will describe the following particulars:

- 13.2.1 the matter in respect of which the decision is to be made;
- 13.2.2 where the decision maker is a body, its name and a list of its membership;
- 13.2.3 the date on which, or the period within which, the decision is to be made;

- 13.2.4 a list of the documents submitted to the decision maker for consideration in relation to the matter;
- 13.2.5 the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- 13.2.6 that other documents relevant to those matters may be submitted to the decision maker; and
- 13.2.7 the procedure for requesting details of those documents (if any) as they become available.

### 13.3 Publication of the Notice of Key Decision

The Notice of Key Decision must be made available for inspection by the public at Council Offices, Foster Avenue, Beeston, Nottingham, NG9 1AB and on the Council's website: [www.broxtowe.gov.uk](http://www.broxtowe.gov.uk). This will usually be done through the Cabinet Work Programme.

## 14. THE FORWARD PLAN

The Council is not required by law to publish a Forward Plan. However, a Notice of Key Decision and a Notice of Private Meeting of Cabinet must be published by the Council setting out not just details of specific Key Decisions, but also details of Key decisions over 28 day period (including decisions to be made by Cabinet, individual Cabinet Members or Officers, which are not Key Decisions. In this Constitution, such notices are together referred to as the "Forward Plan". The Forward Plan does not have to include exempt information and should not include confidential information. This information will generally be included in the Cabinet Work Programme.

## 15. GENERAL EXCEPTION

- 15.1 If a Notice of Key Decision has not been published, then subject to Rule 16 (special urgency), the decision may still be taken if:
  - 15.1.1 the decision must be taken by such a date that it is impracticable to publish a Notice of Key Decision;
  - 15.1.2 the Monitoring Officer has informed the Chair of the Overview & Scrutiny Committee, or in their absence the Vice-Chair, in writing, or if there is no such person, each Member of that Committee in writing, by notice, of the matter about which the decision is to be made;

- 15.1.3 the Monitoring Officer has made copies of that notice available to the public at the offices of the Council and on the Council's website: [www.broxtowe.gov.uk](http://www.broxtowe.gov.uk); and
- 15.1.4 at least 5 clear days have elapsed since the Monitoring Officer complied with Rules 15.1.2 and 15.1.3.
- 15.2 As soon as reasonably practicable after the Monitoring Officer has complied with Rule 15.1, he must make available at Council Offices, Foster Avenue, Beeston, Nottingham, NG9 1AB and published on the Council's website: [www.broxtowe.gov.uk](http://www.broxtowe.gov.uk) (if any) the reasons why compliance with Rule 14 is impractical.

## **16. SPECIAL URGENCY**

- 16.1 If by virtue of the date by which a Key decision must be taken Rule 15 (general exception) cannot be followed, then the Key Decision can only be taken if the decision maker obtains the agreement of the Chair of the Overview and Scrutiny Committee or in their absence the Vice-Chair that the taking of the decision cannot be reasonably deferred. If there is no Chair or Vice-Chair of the Overview and Scrutiny Committee, or if the Chair or Vice-Chair of the Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor of the Council, or in their absence the Deputy Mayor of the Council, will suffice.
- 16.2 As soon as reasonably practicable after the decision maker has obtained agreement under Rule 16.1 they must make available at Council Offices Foster Avenue, Beeston, Nottingham, NG9 1AB and publish on [www.broxtowe.gov.uk](http://www.broxtowe.gov.uk) (if any) a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred.

## **17. REPORT TO COUNCIL**

- 17.1 The Overview and Scrutiny Committee can require a report if the Overview and Scrutiny Committee thinks that a Key Decision has been taken which was not:
  - 17.1.1 the subject of a Notice of Key Decision; or
  - 17.1.2 the subject of the general exception procedure; or
  - 17.1.3 the subject of an agreement with the Chair, or in their absence the Vice-Chair of the Overview and Scrutiny Committee, or the Mayor or Deputy Mayor of the Council under Rule 16;



it may require the Cabinet to submit a report to the Council within such reasonable time as the Overview and Scrutiny Committee specifies. The report must include details of the decision and the reasons for the decision, the decision maker, and the reasons, if any, for the Cabinet believing that the decision was a key decision. The power to require a report rests with the Overview and Scrutiny Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by the Chair or in their absence the Vice-Chair of the Overview and Scrutiny Committee or any 5 Members of the Committee. Alternatively, the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

#### **17.2 Cabinet's report to Council**

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 decision-maker then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the decision-maker and that Leader of the Council is of the opinion that the decision was not a Key Decision the reasons for that opinion.

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

After any meeting of the Cabinet or any of its Committees, whether held in public or in private, the Monitoring Officer or, where no Officer was present, the person presiding at the meeting, will produce a written record of every decision taken at that meeting as soon as practicable. The record will include:

- 18.1 a record of the decision including the date it was made;
- 18.2 a record of the reason for the decision;
- 18.3 details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
- 18.4 a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and
- 18.5 in respect of any declared conflict of interest, a note of dispensation granted by the Monitoring Officer.

### **19. MEETINGS OF THE CABINET TO BE HELD IN PUBLIC**

Meetings of the Cabinet and its Committees will be held in public, unless it is likely that exempt or confidential information would be disclosed or whenever a lawful power is used

to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting. The public may only be excluded for the part or parts of the meeting during which it is likely that exempt or confidential information would be disclosed.

## **20. NOTICE OF PRIVATE MEETINGS OF THE EXECUTIVE**

20.1 Members of the Cabinet or its Committees will be entitled to receive 5 clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

20.2 At least 28 clear days before a private meeting, the decision-making body must:-

20.2.1 make available at the offices of the Council a notice of its intention to hold the meeting in private (a "Notice of Private Meeting"); and

20.2.2 publish that notice on the Council's website.

20.3 At least 5 clear days before a private meeting, the decision-making body must:-

20.3.1 make available at the offices of the Council a further notice of its intention to hold the meeting in private; and

20.3.2 publish that notice on the Council's website.

20.4 A notice under paragraph 20.3 must include:

20.4.1 a statement of the reasons for the meeting to be held in private

20.4.2 details of any representations received by the decision-making body about why the meeting should be open to the public; and

20.4.3 a statement of its response to any such representations.

20.5 Where the date by which a meeting must be held makes compliance with this Rule impractical, the meeting may only be held in private where the decision-making body has obtained agreement from:

20.5.1 the Chair, or in their absence the Vice-Chair, of the Overview and Scrutiny Committee; or

20.5.2 if there is no such person, or if the Chair or Vice-Chair of the Overview and Scrutiny Committee is unable to act, the Mayor or in their absence the Deputy Mayor of the Council;

that the meeting is urgent and cannot reasonably be deferred

20.6 As soon as reasonably practicable after the decision-making body has obtained agreement under paragraph 20.5 to hold a private meeting, it must

20.6.1 make available at the office of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and

20.6.2 publish that notice on the Council's website.

## **21. ATTENDANCE AT PRIVATE MEETINGS OF THE CABINET**

### **21.1 Notice and attendance**

21.1.1 All Members of the Cabinet will be served notice of all private meetings of the Committees of the Cabinet, whether or not they are Members of that Committee.

21.1.2 All Members of the Cabinet are entitled to attend private meetings of the Cabinet, and its Committees.

21.1.3 Members other than Cabinet Members will not be entitled to attend private meetings of the Cabinet and its Committees.

### **21.2 Officer attendance**

21.2.1 The Chief Executive, Section 151 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.

21.2.2 The Head of Governance shall arrange for an Officer to attend private Cabinet meetings to record and publish the decisions. In the absence of such an Officer this will be the responsibility of the Chair or in their absence the Vice-Chair of the meeting.

21.2.3 There is no requirement for the Cabinet to meet in the presence of the Officers named in paragraphs 21.2.1 and 21.2.2

## **22. JOINT COMMITTEES**

These Rules apply to the Council's Joint Committees as follows:

22.1 If all the Members of a Joint Committee are Members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Executive.

22.2 If the Joint Committee contains Members who are not Members of the Cabinet of any participating authorities then the access to information rules in Part VA of the

Local Government Act 1972, as applicable to meetings of the full Council and its Committees will apply.

## **23. OVERVIEW AND SCRUTINY COMMITTEE AND SCRUTINY SUB-COMMITTEES - ACCESS TO DOCUMENTS**

### **23.1 Rights to copies**

Subject to Rule 23.2 below, the Overview and Scrutiny Committee and Sub-Committees are entitled to copies of any document which is in the possession or control of the Cabinet or any of its Committees and which contains material relating to:

- 23.1.1 any business transacted at a meeting of the Cabinet or its Committees;
- 23.1.2 any decision taken by an individual Cabinet Member; or
- 23.1.3 any decision taken by an Officer of the Council in accordance with the Council's Executive arrangements.

### **23.2 Limit on rights**

The Overview and Scrutiny Committee and Sub-Committee will be entitled to:

- 23.2.1 any document that is in draft form;
- 23.2.2 any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision the Committee is reviewing or scrutinising or intend to review or scrutinise.

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

### **24.1 Material relating to business to be transacted at a Public Meeting**

24.1.1 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 contain material relating to any business to be transacted at a public meeting unless (a) or (b) or applies:

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

24.1.2 Any document which is required by Rule 24.1.1 to be available for inspection by any member of the Council must be available for such inspection for at least five (5) clear days before the meeting except that-

- (a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available under Rule 24.1.1 in relation to that time, must be available for inspection when the item is added to the agenda.

## 24.2 Material relating to previous business

24.2.1 All Members will be entitled to inspect any document (except those available only in draft form) 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 or to any decision made by a Member or Officer in accordance with Executive arrangements unless 24.1.1(a) or 24.1.1(b) applies.

24.2.2 Any document required to be made available for inspection under Rule 24.2 must be made available when the relevant meeting concludes or, where an Executive decision is made by an individual Member or Officer, immediately after the decision has been made, and in any event, within twenty four (24) hours of the conclusion of the meeting or the decision having been made as the case may be.

## 25. MEMBERS OTHER RIGHTS TO INFORMATION

25.1 A Member of the Council may, for the purposes of their duty as a Member and no other, inspect any document that has been considered by a Committee or the Council including background papers. Applications should be made to the Monitoring Officer and, if available, copies will be supplied upon request.

25.2 A Member shall not knowingly inspect or request a copy of any document relating to a matter in which he:

25.2.1 is professionally interested; or

25.2.2 has a registerable, non-registerable or other registerable personal interest within the meaning of the Code of Conduct for Members as set out in this Constitution.

- 25.3 This shall not preclude the Monitoring Officer from declining to allow inspection of any document which is or would be protected by privilege in the event of legal proceedings arising from the relationship of solicitor and client and should be exempt under the Freedom of Information Act 2000, the Data Protection Act 2018 and the UK GDPR.
- 25.4 All reports, background papers to reports and minutes kept by any Committee shall be open for the inspection of any Member of the Council, as soon as the Committee has concluded action on the matter to which such reports or minutes relate.

## **26. CONFIDENTIAL INFORMATION AND EXEMPT INFORMATION**

- 26.1 Nothing in these Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.
- 26.2 Nothing in these Rules:
- 26.2.1 authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Monitoring Officer, that document or part of a document contains or may contain confidential information; or
  - 26.2.2 requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Monitoring Officer, that document or part of a document contains or is likely to contain exempt information.
- 26.3 Where a Member of the Cabinet or an Officer makes an Executive decision in accordance with Executive arrangements, nothing in these Rules:
- 26.3.1 authorises or requires documents relating to that decision to be disclosed to the public, or made available for public inspection where, the documents contain confidential information; or
  - 26.3.2 requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the disclosure of the documents would, in the opinion of the Member or Officer making the decision, give rise to the disclosure of exempt information.
- 26.4 Nothing in these Rules requires a decision making body to permit the taking of any photographs of any proceedings or the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later), or the making of any oral report on any proceedings as they take place. The taking of photographs

and the making or recordings is subject to the permission of the Chair of the meeting.

# **Broxtowe Borough Council Constitution**

## **Chapter 2 – Part 6**

### **Budget and Policy Framework Procedure Rules**



## **Chapter 2 Part 6: BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **The Framework for Executive Decisions**

- 6.1 The Council is responsible for the adoption of its Budget and Policy Framework as set out in Chapter 2 Part 1 of this Constitution. Once a Budget and the Policy Framework are adopted by Council, it is the responsibility of the Cabinet to implement the Executive functions within that Budget and Policy Framework.

### **Process for Developing the Budget and Policy Framework**

- 6.2 After an appropriate consultation with the community and other stakeholders, the Cabinet will draft initial proposals in relation to any plan, strategy or budget which forms part of the Council's Budget and Policy Framework.
- 6.3 When the initial proposals have been drafted by the Cabinet, they will provide a copy to the Chair, or the Vice-Chair in their absence, of the Overview & Scrutiny Committee.
- 6.4 At the same time the Cabinet will notify the Overview & Scrutiny Committee of the dates and/or proposed timetable within which the Cabinet intend to develop the proposal and submit them to full Council for approval. The timetable will allow as far as possible for both the Cabinet and Overview & Scrutiny Committee to consider the proposals at ordinary planned meetings.
- 6.5 The Overview & Scrutiny Committee will have three weeks to make its response unless the Cabinet has agreed a longer period with the Chair of the Overview & Scrutiny Committee.
- 6.6 The Cabinet will finalise its proposals for consideration by full Council taking into account the recommendations (if any) of the Overview & Scrutiny Committee. The report to full Council will include the recommendations (if any) of the Overview & Scrutiny Committee, Cabinet's response to those recommendations (if any) and the extent to which they have been accepted by the Cabinet.
- 6.7 Full Council will consider the final proposals of the Cabinet and may:
- a) adopt them without amendment;
  - b) amend them after a motion to amend is put by the Leader and seconded;
  - c) refer them back to the Cabinet for further consideration; or
  - d) substitute its own proposals in their place.

- 6.8 If the Council accepts the Cabinet proposals with or without amendment the decision shall be effective immediately.
- 6.9 If the Cabinet proposals are not accepted, the Monitoring Officer will inform the Leader of the Council's objections and require him/her to reconsider the Cabinet proposals. The Leader will have 5 working days from receipt of the notification to submit a revised proposal or inform the Council of the Cabinet's disagreement with the objections. The Council's decision will become effective on the expiry of 5 clear working days after notification of the Council's objections unless the Leader submits revised proposals and/or formally objects in that period.
- 6.10 If the Leader wishes to submit revised proposals and or disagree with the objections of the Council written notice will be given to the Monitoring Officer to that effect prior to the date upon which the decision is to be effective. The written notice must state the reasons for the revised proposals and/or the disagreement. Where such notice is received the Monitoring Officer shall convene a further meeting of the Council to reconsider its decision and the decision shall be effective pending that meeting.
- 6.11 The Council meeting must take place within 10 working days of the receipt of the Leader's written notice unless the Mayor and Leader agree that the matter can wait until the next programmed meeting of the Council. At that Council meeting the decision of the Council shall be reconsidered in the light of any revised proposals submitted and the reasons for those revisions and/or the Cabinet disagreement and reasons for that disagreement which shall be available in writing to the Council.
- 6.12 The Council shall at that meeting make its final decision on the matter on the basis of a simple majority.

### **Decisions Outside the Budget or Policy Framework**

- 6.13 Subject to the provisions of the Financial Procedure Rules, the Cabinet may only take decisions which are in line with the Budget and Policy Framework. Where the Cabinet wishes to make a decision which is contrary to the Policy Framework, or contrary to the Budget approved by full Council, then that decision may only be taken by the Council, subject to Rule 6.15 below.
- 6.14 If the Cabinet wants to make such a decision, it shall take advice from the Monitoring Officer and/or the Section 151 Officer as to whether the decision they want to make would be contrary to the Budget and/or Policy Framework. If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to full

Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 6.15 (urgent decisions outside the Budget and Policy Framework) below shall apply.

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

6.15 The Cabinet, may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by full Council only if the decision is a matter of urgency. However, the decision may only be taken:

- a) if it is not practical to convene a quorate meeting of the full Council; and
- b) if the Chair, or in their absence, the Vice-Chairs of the Overview & Scrutiny Committee agrees that the decision is a matter of urgency;
- c) in the absence of the Chair or Vice-Chairs of the Overview & Scrutiny Committee the agreement of the Mayor or Deputy Mayor of the Council will be sufficient.

6.16 The reasons why it is not practical to convene a quorate meeting of full Council in time and the consent of the Chair, or in their absence the Vice-Chairs of the Overview & Scrutiny Committee to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair or the Vice Chair of the Overview & Scrutiny Committee the consent of the Mayor or in their absence the Deputy Mayor of the Council will be sufficient.

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

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

6.18 Where the Overview and Scrutiny Committee is using its powers to call-in is of the opinion that a decision is, or if made would be, contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, it shall seek advice from the Monitoring Officer and/or Section 151 Officer.

6.19 In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Section 151 Officer's report shall be made to the Cabinet with a copy to every councillor. 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 and/or the Section 151 Officer's report. Cabinet shall prepare a

report to full Council in the event that the Monitoring Officer or the Section 151 Officer conclude that the decision was a departure or prepare a report to the Overview and Scrutiny Committee if the Monitoring Officer or the Section 151 Officer conclude that the decision was not a departure.

- 6.20 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 Section 151 Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the Overview and Scrutiny Committee may refer the matter to full Council. In such cases, no further action will be taken in respect of the decision or its implementation until full Council has met and considered the matter. The full Council shall meet within 21 working days of the request or referral by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Section 151 Officer. The Council may either:
- a) endorse a decision or proposal as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - b) amend the Council's Budget or Policy concerned to encompass the decision or proposal and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - c) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget and does not amend the existing Framework or Budget to accommodate it, require the Cabinet or the decision-taker to reconsider the matter in accordance with the advice of the Monitoring Officer and/or Section 151 Officer.

# **Broxtowe Borough Council Constitution**

## **Chapter 2 – Part 7**

### **Overview & Scrutiny Arrangements and Procedure Rules**

## **Chapter 2 Part 7: OVERVIEW & SCRUTINY ARRANGEMENTS AND PROCEDURE RULES**

### **1. The Overview & Scrutiny Committee and Arrangements for Overview & Scrutiny**

The Council will have an Overview & Scrutiny Committee which may appoint Scrutiny Sub-Committees or working groups to carry out detailed examination of particular topics for report back to it. Such Sub-Committees or working groups may be appointed for a fixed period on the expiry of which they shall cease to exist.

Any Member of the Council may refer a matter to the Overview & Scrutiny Committee in accordance with Rule 8 below.

### **2. The Membership of the Overview & Scrutiny Committee**

All Members of the Council except Members of the Cabinet (or Committees of the Cabinet), the Mayor and Deputy Mayor of the Council are eligible for appointment as Members of the Overview & Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which they have been directly involved.

### **3. Co-Optees**

The Overview & Scrutiny Committee shall be entitled to appoint a maximum of six people as non-voting co-optees either as standing Members of the Committee or on a time limited basis to assist with the Committee; and may also appoint non-voting co-optees to assist with Overview and Scrutiny Sub-Committees or working groups. The selection and nomination of co-opted Members shall be in accordance with any protocol agreed by the Overview & Scrutiny Committee.

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

The Council may determine a cycle of meetings for the Overview & Scrutiny Committee and its Sub-Committees (if any). If the Council do not set the cycle, the Overview & Scrutiny Committee shall determine its own cycle of meetings. The Chair, or in their absence the Vice-Chairs, may change the date or cancel meetings, or call additional meetings as they consider necessary to deal with the Committee's work programme. A meeting of the Overview & Scrutiny Committee and any of its Sub-Committees may be called by its Chair (or in their absence, the Vice-Chairs) or by the Monitoring Officer, if they consider it necessary or appropriate.

## **5. Quorum**

The quorum for an Overview & Scrutiny Committee or Scrutiny Sub-Committees one quarter of the Members of the Committee rounded up and not less than three.

## **6. The Chair**

There shall be a Chair and two Vice-Chairs of the Overview & Scrutiny Committee appointed by the Council. The Chair and the Vice-Chairs of and a Scrutiny Sub-Committee, shall be appointed by the Chair of the Overview & Scrutiny Committee as required.

6.1 In the absence of the Chair the Vice-Chairs can exercise the powers of the Chair.

6.2 The Chair and the Vice-Chairs of the Overview & Scrutiny Committee shall be entitled to attend each Scrutiny Sub-Committee [and may participate in the meeting but shall not be entitled to vote].

## **7. Work Programme**

The Overview & Scrutiny Committee and the Scrutiny Sub-Committees will, following consultation with the Chair and Vice-Chairs of the Overview & Scrutiny Committee, set their own work programme and in doing so they shall take into account wishes of Members on that Committee who are not Members of the largest political group on the Council.

## **8. Agenda Items**

8.1 Any Member of the Council, including Members of the Overview & Scrutiny Committee or Scrutiny Sub-Committee shall be entitled to give notice to the Monitoring Officer that they wish an item relevant to the functions of the Committee to be included on the agenda for the next available meeting. Seven working days' notice of the item should be given to the Monitoring Officer together with sufficient information to enable the Monitoring Officer to advise about the nature and purpose of the item.

8.2 On receipt of such a request, so long as it is an appropriate matter to be considered, the Monitoring Officer will ensure that it is included on the next available agenda.

8.3 The Overview & Scrutiny Committee and the Scrutiny Sub-Committees shall also respond, as soon as their work programme permits, to requests from the Council, Cabinet and or the relevant Committee to review particular areas of

Council activity. Where they do so, the Overview & Scrutiny Committee shall report their findings and any recommendations back to the Council, Cabinet and/or relevant Committee. The Council, Cabinet and/or relevant Committee shall consider the report of the Overview & Scrutiny Committee or its Sub-Committees within two meetings of receiving it.

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

- 9.1 The role of the Overview & Scrutiny Committee in relation to the development of the Council's Budget and Policy Framework is set out in the Budget and Policy Framework Procedure Rules at Chapter 2 Part 6 of this Constitution.
- 9.2 In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, the Overview & Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- 9.3 The Overview & Scrutiny Committee and a Scrutiny Sub-Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay for any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

## **10. Reports from the Overview & Scrutiny Committee and Scrutiny Sub-Committees**

- 10.1 The Overview & Scrutiny Committee or a Scrutiny Sub-Committees will prepare a report detailing its considerations, proposals or recommendations for consideration by the Cabinet, relevant Committee or the Council.
- 10.2 The Overview & Scrutiny Committee will submit the report to the Monitoring Officer for consideration by the Cabinet (if the proposals are consistent with the existing Budget and Policy Framework), or the relevant Committee or the Council to the Council as appropriate (e.g. if the proposals or recommendations would require a departure from or a change to the agreed Budget and Policy Framework).
- 10.3 If the Overview & Scrutiny Committee cannot agree on a single final report to the Council or Cabinet as appropriate, one minority report may be prepared



and submitted for consideration by the Cabinet, relevant Committee or the Council with the majority report.

- 10.4 The Cabinet, relevant Committee or the Council shall consider the report of the Overview & Scrutiny Committee within two meetings of the report being submitted to the Monitoring Officer.

## **11. Ensuring the Cabinet's Consideration of Overview & Scrutiny Reports**

- 11.1 The agenda for Cabinet meetings shall include an item entitled 'Scrutiny Reviews'. The reports of the Overview & Scrutiny Committee referred to the Cabinet shall be included following this point in the agenda (unless they have been considered in the context of the Cabinet deliberations on a substantive item on the agenda) as soon as practicable. Where an item is not considered by the Cabinet or Council (as the case maybe) within two meetings, they will provide an explanation of the reasons to the Chair of the Overview & Scrutiny Committee as soon as practicable.
- 11.2 The Overview & Scrutiny Committee and a Scrutiny Sub-Committee will have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview & Scrutiny Committee following a consideration of possible policy/service developments, it will be able to respond in the course of the Cabinet's consultation process in relation to any Key Decision.
- 11.3 Where the Cabinet has delegated decision-making power to individual Members of the Cabinet or Officers, the Overview & Scrutiny Committee will submit a copy of their report to them for consideration. At the time of doing so the Overview & Scrutiny Committee shall serve a copy of the report on the Monitoring Officer. The Cabinet Member or Officer with delegated decision-making power must consider the report and respond in writing to the Overview & Scrutiny Committee within four weeks of receiving it. A copy of their written response to it shall be sent to the Monitoring Officer and the Leader.

## **12. Rights of the Overview & Scrutiny Committee to Documents**

- 12.1 In addition to their rights as Councillors, Members of the Overview & Scrutiny Committee and the Scrutiny Sub-Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules at Chapter 2 Part 5 of this Constitution.

- 12.2 Nothing in this Rule 12 more detailed liaison between the Cabinet and the Overview & Scrutiny Committee and the Scrutiny Sub-Committees as appropriate depending on the particular matter under consideration.

**13. Members and Officers Giving Account to the Overview & Scrutiny Committee**

- 13.1 The Overview & Scrutiny Committee and the Scrutiny Sub-Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function. As well as reviewing documentation, in fulfilling the Scrutiny role, it may require any Member of the Cabinet, the Chief Executive and / or any senior Officer to attend before it to explain in relation to matters within their remit:

13.1.1 any particular decision or series of decisions;

13.1.2 the extent to which the actions taken implement Council policy; and/or

13.1.3 their performance

and it is the duty of those persons to attend if so required.

- 13.2 For this purpose, senior Officer includes any Chief Officer or Deputy Chief Officer and other appropriate senior Officers. Where there are concerns about the appropriateness of the Officer who should attend, the relevant Chief Officer shall discuss this with the appropriate Scrutiny Chair or Vice-Chair with a view to achieving consensus.

- 13.3 Where any Member or Officer is required to attend the Overview & Scrutiny Committee or a Scrutiny Sub-Committee under this provision, the Chair of that Committee will inform the Monitoring Officer. The Monitoring Officer shall inform the Member or Officer, if necessary in writing, giving at least 7 working days' notice of the meeting at which they are required to attend (unless agreed otherwise). Any notice will state the nature of the item on which the Member or Officer is required to attend to give account and whether any papers are required to be produced for the Committee.

- 13.4 Where the account to be given to the Overview & Scrutiny Committee or Scrutiny Sub-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 report.

- 13.5 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Overview & Scrutiny Committee or Scrutiny Sub-

Committee shall, in consultation with the Member or Officer, arrange an alternative date for attendance.

**14. Attendance by Others**

The Overview & Scrutiny Committee or Scrutiny Sub-Committee may invite people other than those referred to in Rule 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders, Members and Officers in other parts of the public sector and may invite such people to attend.

**15. Call-In**

15.1 The Overview & Scrutiny Committee has the power to Call-In decisions made by the Cabinet or a Committee (or by an individual Cabinet Member or Officer where acting under delegated authority) (which term shall also include a Joint Committee) but not yet implemented. The purpose is to consider whether to recommend that a decision be reviewed by the decision-maker This is a power which should only be used in exceptional circumstances and cannot be used in respect of day-to-day management and operational decisions.

15.2 When a decision is made by the Cabinet, an individual Member of the Cabinet or Officer with delegated powers or under joint arrangements, notice of the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 3 working days of being made. All Overview & Scrutiny Committee Members will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

15.3 That 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 5 working days after the publication of the decision, unless the decision is Called-In under the provisions set out below and shall otherwise be in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (in respect of Executive decisions) or the Openness of Local Government Bodies Regulations 2014 (in respect of relevant Non-Executive decisions).

15.4 Within that period:

15.4.1 the Chair or, in their absence the Vice-Chairs, of the Overview & Scrutiny and two Members of the Committee; or

15.4.2 any five Members of the Council

may sign a notice requesting that the decision is Called-In and submit the notice to the Monitoring Officer. The notice should give reasons for the request for Call-In having regard to the principles of decision making set out at Chapter 1 Part 2 of this Constitution.

- 15.5 On receipt of the notice the Monitoring Officer will, as soon as possible, seek the views of the Chair or in their absence, the Vice-Chairs of the Overview & Scrutiny Committee, or in the absence of both, a Chair or Vice-Chairs of Scrutiny Sub-Committee.
- 15.6 The Chair or Vice-Chairs to whom the request is referred will consider whether the request is valid. They will take account of whether a case has been made out for Calling-In the decision and whether delaying the implementation of the decision would be likely to cause significant damage to the Council's interests. They will have regard to the advice of the Monitoring Officer and S151 Officer on this point.
- 15.7 If it is considered that the request for Call-In is valid, the Monitoring Officer will convene a meeting of the Overview & Scrutiny Committee within 7 working days, after consulting the Chair of the Committee about the date. The Committee will then proceed in accordance with Rule 15.9 below.
- 15.8 If the Chair or Vice-Chairs to whom the request is referred, considers that the request is not valid the decision will not be Called-In. The Monitoring Officer will submit a report to the next available meeting of the Overview & Scrutiny Committee giving details of the request and Chair's/Vice-Chair's reasons for refusing it.
- 15.9 Where the Overview & Scrutiny Committee considers a Call-In request, the format of the meeting will be as follows:-
- 15.9.1 after the Chair opens the meeting the Members who asked for the decision to be called in will be asked to explain their reasons for the request and what they feel should be reviewed;
- 15.9.2 on matters of particular relevance to a particular Ward Members who are not signatories to a Call-In have the opportunity to make comments on the Call-In at the meeting, such speeches not to exceed five minutes each. Ward Members will take no further part in the discussion or vote. Ward Members must register

their request to speak by contacting the Monitoring Officer by 12 noon on the day prior to the relevant hearing;

15.9.3 the decision-maker and any relevant Portfolio Holder(s) will then be invited to make any comments;

15.9.4 the relevant Head of Service or their representative will advise the Overview & Scrutiny Members on the background and context of the decision and its importance to achieving Service priorities;

15.9.5 the Scrutiny Members will ask questions of the Members and Officers in attendance;

15.9.6 the decision-maker and any relevant Portfolio Holder(s) will be invited to make any final comments on the matter.

15.10 The Overview & Scrutiny Committee, after considering the evidence presented to the meeting, will make one of the following decisions:-

15.10.1 to take no further action, in which case the decision will take effect immediately;

15.10.2 refer the decision back to the decision-maker for reconsideration, setting out the nature of the Committee's concerns; the decision-maker must then re-consider the matter within a further 10 working days, taking into account the concerns of the Overview & Scrutiny Committee, before making a final decision;

15.10.3 to refer the matter to full Council for its views.

15.11 If, following a request for Call-In, the Overview & Scrutiny Committee does not meet as set out above, or does meet but having decided to refer the decision fails to do so, the decision will take effect on the date upon which the Overview and Scrutiny Committee meeting should have taken place, or the expiry of that further 7 working day period during which the decision should have been referred.

15.12 If the matter is referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no place to make decisions in respect of a Cabinet decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget. Unless that is the case, the Council will

refer any decision to which it objects back to the decision-maker, together with the Council's views on the decision. That decision-maker shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet or a Committee a meeting will be convened to reconsider the decision within 10 working days of the Council's request. Where the decision was made by an individual, the individual will reconsider the decision within 10 working days of the Council's request.

15.13 If the Council objects to the decision but does not refer the decision back to the decision-maker, the decision will become effective on the date of the Council meeting at which the Council considered and referred the decision.

15.14 If a decision is referred to the Council and the Council fails to meet for the purpose of considering the decision, the decision will take effect on the expiry of the period during which the Council meeting should have been held.

## **16. Exceptions**

16.1 In order to ensure that the Call-In procedure is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:

16.1.1 that Call-In can be invoked in respect of a decision only once;

16.1.2 that Call-In will not apply to day-to-day management and operational decisions taken by Officers (Administrative Decisions)

16.2 A decision pertaining to an "excluded matter" pursuant to the Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012 cannot be Called-In.

## **17. Call-In and Urgency**

17.1 The Call-In procedure set out above shall not apply where the decision being taken is urgent.

17.2 A decision will be urgent if any delay will likely to be caused by the Call-In process would seriously prejudice the Council's or the public's interests.

17.3 The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-maker, the decision is an urgent one, and therefore not subject to Call-In.

17.4 The Chair, or in their absence, the Vice-Chairs of the Overview & Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of

the Chair or Vice-Chairs of the Overview & Scrutiny the Mayor, or in their absence, the Deputy Mayor's consent shall be required. In the absence of both the Mayor and Deputy Mayor the Chief Executive or their Deputy's consent shall be required.

17.5 Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

17.6 The operation of the provisions relating to Call-In and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## **18. The Party Whip**

18.1 If a Member of the Overview & Scrutiny Committee or a Scrutiny Sub Committee is subject to a party whip in respect of an issue to be considered by it, that Member must declare the existence of the whip and the nature of it before the commencement of deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## **19. Overview & Scrutiny Committee Meeting Procedure**

19.1 The Overview & Scrutiny Committee and the Scrutiny Sub-Committees shall consider the following business:-

19.1.1 minutes of the last meeting;

19.1.2 declarations of interest;

19.1.3 consideration of any matter referred to the Committee or Sub-Committee for a decision in relation to call in of a decision;

19.1.4 responses of the Cabinet or decision-maker to reports of the Overview & Scrutiny Committee;

19.1.5 the business otherwise set out on the agenda for the meeting.

19.2 The Overview & Scrutiny Committee or any of the Scrutiny Sub-Committees may ask people to attend to give evidence or answer questions about any items on their agenda. Meetings should be conducted in accordance with the following principles:-

19.2.1 that the business be conducted fairly and all Members of the Committee or Sub-Committee be given the opportunity to ask questions of attendees, and to contribute and speak;

19.2.2 that those assisting by giving evidence be treated with respect and courtesy;

19.2.3 that the business be conducted as efficiently as possible.

19.3 Following any investigation or review, the Committee or Sub-Committee shall prepare a report, for submission to the Cabinet, decision-maker and/or Council as appropriate and shall make its report and findings public.

## **20. Matters within the Remit of More than One Scrutiny Sub-Committee**

20.1 Where a matter for consideration by a Scrutiny Sub-Committee also falls within the remit of another Overview & Scrutiny Sub-Committee the decision as to which Sub-Committee will consider the matter shall be agreed by the Chairs of the Sub-Committees or, if they fail to agree, the Chair of the Overview & Scrutiny Committee.

## **21. Councillor Call for Action**

21.1 The Councillor Call for Action is a mechanism for enabling elected Members to bring matters of local concern to the attention of the Council, via the Scrutiny process.

21.2 Any Member may request that an item is placed on the agenda of the Overview & Scrutiny Committee for consideration. The Member making that request does not have to be a Member of the Overview & Scrutiny Committee or a Scrutiny Sub-Committee.

21.3 The Call for Action should be an option of “last resort”. In considering whether to refer to a matter in accordance with these provisions, Members must have regard to relevant guidance issued by the Secretary of State. A Call for Action will only be included on the Overview & Scrutiny Committee agenda if the Chair, in consultation with the Monitoring Officer, is satisfied that:

21.3.1 the Member has made all reasonable efforts to resolve the matter via direct liaison with the Council’s Officers and/or relevant partners; and

21.3.2 the issue of concern is a matter in respect of which the Council has a statutory power or duty and is not precluded by adopted Council policy or legislation; and

21.3.3 the issue of concern has a demonstrable impact on a part or the whole of the Member’s Ward;



and information to support the above criteria should accompany the Call for Action request.

21.4 A Call for Action cannot, in any event, relate to:

21.4.1 a planning decision;

21.4.2 a licensing decision;

21.4.3 any matter concerning an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;

21.4.4 any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview & Scrutiny Committee.

21.4.5 any matter which is a local crime and disorder matter for the purposes of Section 19 of the Police and Justice Act 2006.

21.5 If the Chair (or the Vice Chairs in their absence) rejects the Call for Action the Member who made the request shall be provided with reasons for the decision.

21.6 A valid Call for Action will be considered at the next ordinary meeting of the Overview & Scrutiny Committee or at a special meeting of the Committee within 14 days of validation whichever is the sooner. The Committee may either decide to consider the matter itself or refer it to an appropriate Scrutiny Sub-Committee.

21.7 The subject matter of the Call for Action will be the subject of a report from the relevant Head of Service, with such supporting information and evidence as is reasonably available. If the matter also or exclusively entails consideration of information held by another public body or partner, an appropriate representative shall be invited to the Overview & Scrutiny Committee or Scrutiny Sub-Committee meeting to provide that information, make representations and answer questions.

21.8 The Call for Action will be considered by the Overview & Scrutiny Committee or Scrutiny Sub-Committee in public session unless consideration of the issues involves the disclosure of exempt or confidential information as defined by the Access to Information Procedure Rules at Chapter 2 Part 5 of this Constitution.

- 21.9 The Member who referred the matter under Rule 21.2 above may address the Overview & Scrutiny Committee or Scrutiny Sub-Committee in respect of the Call for Action for up to 10 minutes.
- 21.10 The Overview & Scrutiny Committee or Scrutiny Sub-Committee may also consider representations from any residents of the Ward affected by the Call for Action, subject to the discretion of the Chair.
- 21.11 If the Call for Action concerns issues that fall within the remit of the Cabinet, the relevant Cabinet Member / Portfolio Holder shall also attend the Overview & Scrutiny Committee or Scrutiny Sub-Committee to answer questions and make any representations.

## **22. Reports and Recommendations on a Call for Action**

- 22.1 Where the Overview & Scrutiny Committee or a Scrutiny Sub-Committee makes a report or recommendations to the Council or the Cabinet as a result of a reference under Rule 21 above, the Overview & Scrutiny Committee or Scrutiny Sub-Committee may publish the report, subject to the provisions of the Local Government Act 2000 (as amended) ("the 2000 Act") in relation to confidential or exempt information.
- 22.2 The Overview & Scrutiny Committee or Scrutiny Sub-Committee will, by notice in writing to the Monitoring Officer, require the Council or Cabinet:-
- 22.2.1 to consider the report or recommendations,
  - 22.2.2 to respond to the Overview & Scrutiny Committee or Scrutiny Committees indicating what, if any action the Council or Cabinet proposes to take,
  - 22.2.3 if the Overview & Scrutiny Committee or Scrutiny Sub-Committee has published the report or recommendations, to publish the response, subject to the provisions the 2000 Act (as amended) relating to confidential or exempt information,
  - 22.2.4 if the Overview & Scrutiny Committee or Scrutiny Sub-Committee provided a copy of its report or recommendations to the Member who referred the matter to the Committee, to provide that Member with a copy of the response, subject to the provisions 2000 Act (as amended) in relation to confidential or exempt information,

and to do so within two months of the date when the Council or Cabinet received the report or recommendations or (if later) the date when the Monitoring Officer received the notice.

## **23. Scrutiny of Crime and Disorder Matters**

- 23.1 The Overview & Scrutiny Committee is designated as the Council's Crime and Disorder Committee (the "Crime & Disorder Scrutiny Committee") (in accordance with section 19 of the Police and Justice Act 2006) with responsibility for scrutinising crime and disorder and community safety matters.
- 23.2 Any Member of the Council may give notice to the Monitoring Officer that they wish an item which they consider to be a crime and disorder matter to be included on the agenda for discussion at the next meeting of the Crime & Disorder Scrutiny Committee.
- 23.3 On receipt of the request, the Monitoring Officer will ensure that the item is included on the next available agenda for consideration by the Crime & Disorder Scrutiny Committee.
- 23.4 Rules 21.7 to 21.11 above shall apply to the consideration of a crime and disorder matter by the Crime & Disorder Scrutiny Committee as they apply to the consideration of a Call for Action by the Overview & Scrutiny Committee or Scrutiny Sub-Committee.
- 23.5 If the Crime & Disorder Scrutiny Committee decides not to make a report or recommendation to the Council in relation to the crime and disorder matter, it must notify the Member who referred the matter of its decision and the reasons for it.
- 23.6 Where the Crime & Disorder Scrutiny Committee makes a report or recommendations to the Council it must:-
  - 23.6.1 provide a copy of the report or recommendations to the Member who referred the matter to the Committee and
  - 23.6.2 provide a copy of the report or recommendations to such of:-
    - (a) the responsible authorities (within the meaning of Section 5 of the Crime and Disorder Act 1998); and
    - (b) the co-operating persons and bodies (i.e. those persons and bodies with which the responsible authorities have a duty to co-operate under Section 5(2) of the Crime and Disorder Act 1998);

as the Council thinks appropriate.

23.7 Where the Overview & Scrutiny Committee makes a report or recommendations to the Council or provides a copy of a report or recommendations under Rule 23.6.2 above, the Committee must notify the Council, body or person to whom it makes or provides a copy of the report or recommendations that the Council, body or person must:-

23.7.1 consider the report or recommendations;

23.7.2 respond to the Committee indicating what (if any) action it proposes to take;

23.7.3 have regard to the report or recommendations in exercising its functions.

23.8 For the purpose of carrying out its functions under the Crime and Disorder (Overview and Scrutiny) Regulations, 2009, the Crime & Disorder Scrutiny Committee will meet to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of the crime and disorder functions, no less than twice in every 12 month period.

23.9 Where the Crime & Disorder Scrutiny Committee makes a report or recommendations to a responsible authority or to a co-operating person or body in accordance with section 19(8)(b) of the Police and Justice Act, 2006, the Committee shall review the responses received and monitor the action (if any) taken by the relevant authority, person or body in accordance with its powers under section 19(1) of the 2006 Act.



Broxtowe  
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COUNCIL

# **Broxtowe Borough Council Constitution**

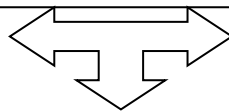
## **Chapter 2 – Part 7a**

### **Overview & Scrutiny Arrangements Flow Diagram**

## **Chapter 2 Part 7a: OVERVIEW & SCRUTINY ARRANGEMENTS FLOW DIAGRAM**

Overview and Scrutiny allows for the understanding of why decisions are made and ensuring the best decisions are made. The Overview and Scrutiny Committee provides the opportunity for Members and Officers to improve the quality and delivery of services. The Committee has the power to consider policy review and development Call-in decisions and consider a Call for Action.

Any Member, including Members of the Overview & Scrutiny Committee may give notice to the Monitoring Officer that they wish an item added to the agenda of the next meeting of the Committee



All Members of the Council except Members of the Cabinet, the Mayor of the Council and Deputy Mayor of the Council, are eligible for appointment as members of the Overview & Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which they have been directly involved.

The Overview & Scrutiny Committee may appoint Scrutiny Sub-Committees or working groups to carry out detailed examination of particular topics for report back to it. Such groups may be appointed for a fixed period before ceasing to exist.

The Overview & Scrutiny Committee shall be entitled to appoint a maximum of six people as non-voting co-optees either as standing Members of the Committee or on a time limited basis.

**When are the Meetings held?**



The Council may determine a cycle of meetings for the Overview & Scrutiny Committee and its Sub-Committees.

If the Council do not set the cycle, the Overview & Scrutiny Committee shall determine its own cycle of meetings.

The Chair, or in their absence the Vice-Chairs, may change the date or cancel meetings, or call additional meetings as they consider necessary to deal with the Committee's work programme.

The Quorum for meetings will be no less than 3 of the Overview & Scrutiny Committee Members.

## NOTICE

Seven working days' notice of the item should be given to the Monitoring Officer together with sufficient information to enable the Monitoring Officer to advise about the nature and purpose of the item.

On receipt of such a request, so long as it is an appropriate matter to be considered Monitoring Officer will ensure that it is included on the next available agenda.

### Not Approved ✗

Matter not appropriate for agenda.

### Approved a

Items added to agenda pursuant to notice.

## WORK PROGRAMME ITEMS

Items set by Overview & Scrutiny Committee and Sub-Committees, taking into account wishes of all Members.

## AGENDA

## CONSIDERATION OF ITEMS ADDED TO NOTICE

### Approved a

The Overview & Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Cabinet, a Committee and / or the Council to review particular areas of Council activity.

### Not Approved ✗

Matter not taken forward.

## OVERVIEW & SCRUTINY COMMITTEE MEETING PROCEDURE

The Overview & Scrutiny Committee any Scrutiny Sub-Committees shall consider the following business:-

- minutes of the last meeting;
- declarations of interest;
- consideration of any matter referred to the Committee or Sub-Committee for a decision in relation to call in of a decision;
- responses of the Cabinet or decision-maker to reports of the Overview & Scrutiny Committee;
- the business otherwise set out on the agenda for the meeting.
- The Overview & Scrutiny Committee or any of the Scrutiny Sub-Committees may ask people to attend to give evidence or answer questions about any items on their agenda. Meetings should be conducted in accordance with the following principles:-
  - that the business be conducted fairly and all Members of the Committee or Sub-Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - that those assisting by giving evidence be treated with respect and courtesy;
  - that the business be conducted as efficiently as possible.

Following any investigation or review, the Committee or Sub-Committee shall prepare a report, for submission to the Cabinet, decision-maker and/or Council as appropriate and shall make its report and findings public.

### REPORTS

The Overview & Scrutiny Committee or a Scrutiny Sub-Committee prepare a report detailing its considerations, proposals or recommendations for consideration by the Cabinet, relevant Committee or the Council.

#### Who is the report submitted to?



The report will be submitted to the Monitoring Officer for consideration by the Cabinet (if the proposals are consistent with the existing Budget and Policy Framework), or the relevant Committee or Council as appropriate (e.g. if the proposals or recommendation would require a departure from or a change to the agreed Budget and Policy Framework).



**What if a report cannot be agreed?**



If the Overview & Scrutiny Committee cannot agree on a single final report one minority report may be prepared and submitted for consideration with the majority report.

**Consideration of report and ensuring consideration**



The Cabinet, relevant Committee or the Council shall will consider the report of the Overview & Scrutiny within two meetings of the report being submitted to the Monitoring Officer.



The agenda for the Cabinet meetings shall include an item entitled 'Scrutiny Reviews'

If the item is not considered within two meetings the Cabinet, Committee or the Council as applicable will provide an explanation as to the reasons.



Where decision-making has been delegated to an individual Cabinet Member or Officer, a copy of the report will be submitted to them for consideration. The Cabinet Member or Officer must consider the report and respond in writing within four weeks of receiving it.

## **MEMBERS AND OFFICERS GIVING ACCOUNT TO THE OVERVIEW & SCRUTINY COMMITTEE**

The Overview & Scrutiny Committee may require a Member or Officer to attend a meeting in relation to a report. The Overview and Scrutiny Committee may also scrutinise and review decisions made or actions taken in connection with the discharge of any function of the Council under the Call-In procedure or the Councillor Call for Action Procedure, and may require any Member of the Cabinet, a Committee the Chief Executive and / or any senior Officer to attend before it to in relation to matters within their remit in relation to

- any particular decision or series of decisions;
- the extent to which the actions taken implements Council policy; and/or
- their performance

### **Notice to attend meeting**

If any Member or Officer is required to attend a meeting of the Overview and Scrutiny Committee the Monitoring Officer shall give at least 7 working days' notice of the meeting at which they are required to attend.

Where the Member or Officer is unable to attend, the meeting, an alternative date shall be agreed.

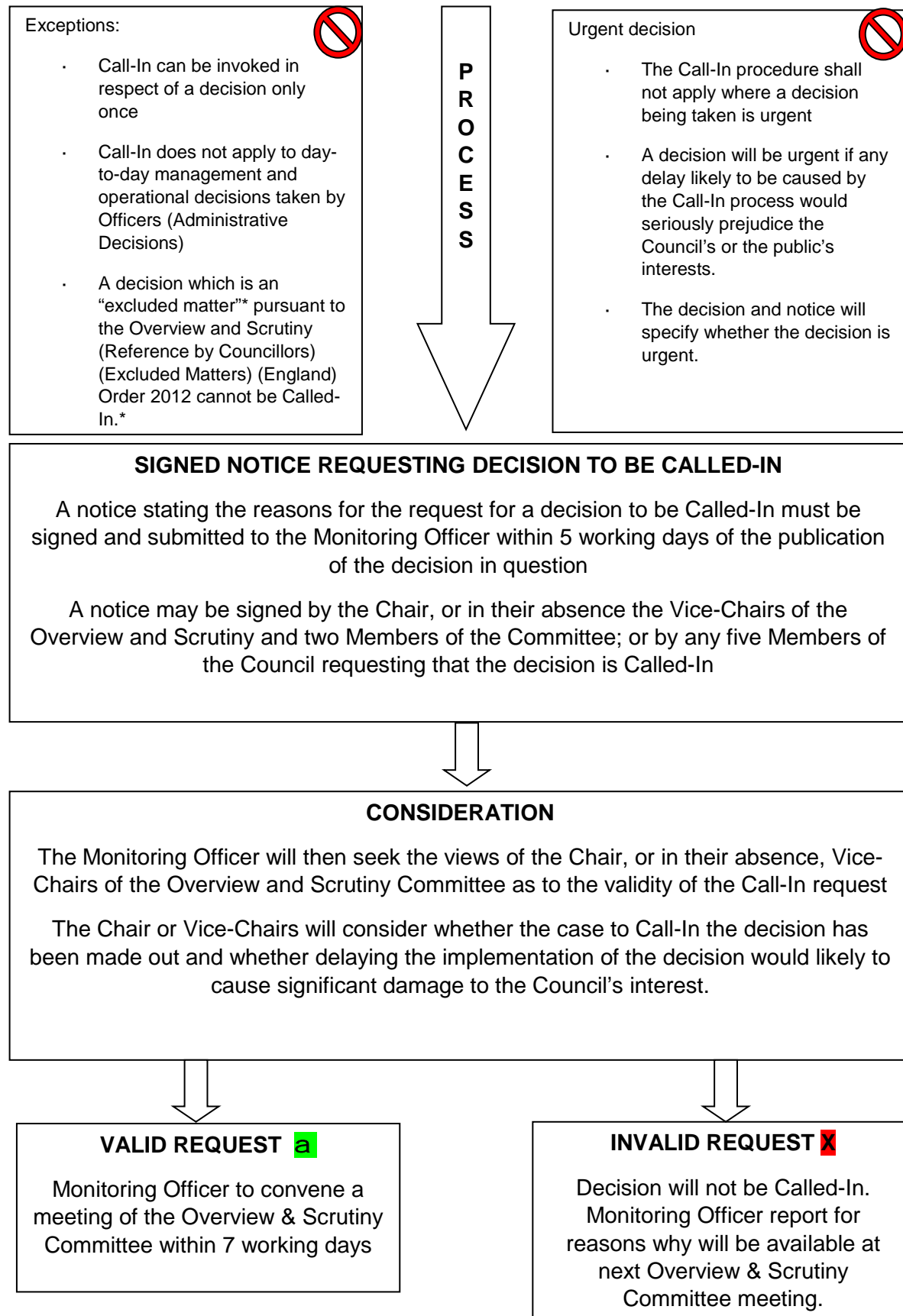
# **Broxtowe Borough Council Constitution**

## **Chapter 2 – Part 7b**

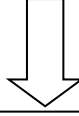
### **Overview & Scrutiny Arrangements Call-in Flow Diagram**

## Chapter 2 Part 7b: CALL – IN PROCESS FLOW DIAGRAM

The Overview and Scrutiny Committee has the power to Call-In decisions made by the Cabinet a Committee or an Officer under delegated authority, but not yet implemented.



**When a valid request has been made:**



### **THE MEETING**

After Chair opens the meeting, the Members who asked for the decision to be Called-In then explain their reasons for the request.

Electoral relevance – the Ward Members who are not signatories to a Call-In have the opportunity to comment on the Call-In, however speeches should not exceed five minutes each.

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Decision-maker and / or any relevant Portfolio Holder(s) on behalf of the Cabinet to make comments.

Relevant Head of Service or their representation will advise the Scrutiny Members of the background and context of decision.

Scrutiny Members to ask questions of the decision-maker and / or relevant Portfolio Holder(s) on behalf of the Cabinet, Ward Members and Officers in attendance.

Decision-maker and any relevant Portfolio Holder(s) on behalf of the Cabinet to make final comments.

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### **DECISION**

No further action – decision will take effect immediately.

Refer matter to full Council for views

Refer decision back to decision-maker and / or relevant Portfolio Holder(s) on behalf of the Cabinet for further consideration and report back within 10 working days.

\*\*\*"Excluded matters" are:

- planning decision
- licensing decision
- any matter concerning an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment
- any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview & Scrutiny Committee.
- any matter which is a local crime and disorder matter for the purposes of Section 19 of the Police and Justice Act 2006.



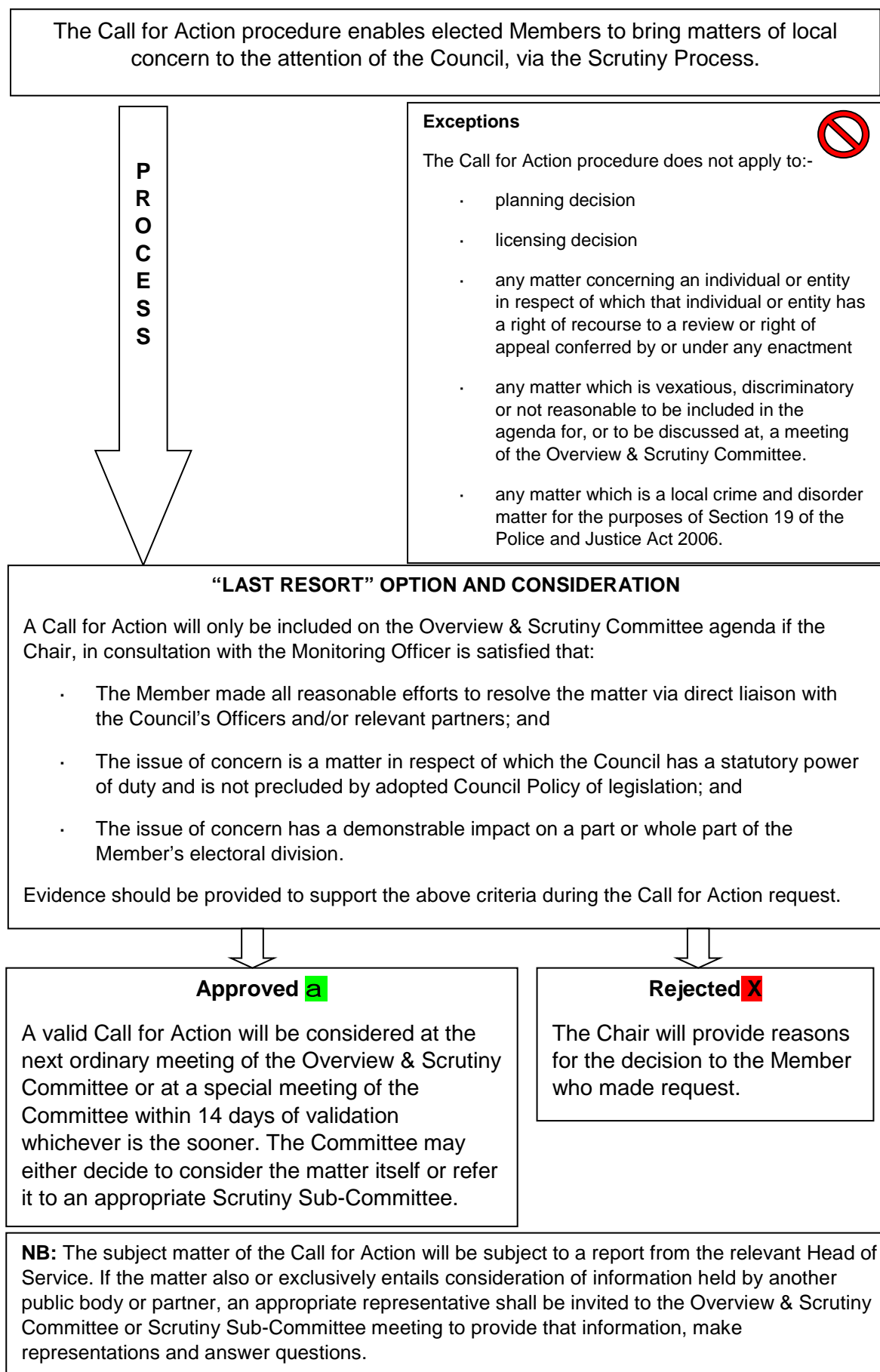
Broxtowe  
Borough  
COUNCIL

# **Broxtowe Borough Council Constitution**

## **Chapter 2 – Part 7c**

### **Councillors Call for Action flow diagram**

## **Chapter 2 Part 7c: COUNCILLOR CALL FOR ACTION FLOW DIAGRAM**



## Reports and Recommendations on a Call for Action

Where the Overview & Scrutiny Committee or a Scrutiny Sub-Committee makes a report or recommendations to the Council or the Cabinet regarding a Call for Action, the Overview & Scrutiny Committee or Scrutiny Sub-Committee may publish the report, subject to the provisions of the Local Government Act 2000 (as amended) ("the 2000 Act") in relation to confidential or exempt information.

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The Overview & Scrutiny Committee or Scrutiny Sub-Committee will, by notice in writing to the Monitoring Officer, require the Council or Cabinet:-

- to consider the report or recommendations
- to respond to the Overview & Scrutiny Committee or Scrutiny Committees indicating what, if any action the Council or Cabinet proposes to take
- if the Overview & Scrutiny Committee or Scrutiny Sub-Committee has published the report or recommendations, to publish the response, subject to the provisions the 2000 Act (as amended) relating to confidential or exempt information
- if the Overview & Scrutiny Committee or Scrutiny Sub-Committee provided a copy of its report or recommendations to the Member who referred the matter to the Committee, to provide that Member with a copy of the response, subject to the provisions 2000 Act (as amended) in relation to confidential or exempt information

**Within two meeting** of the date when the Council or Cabinet received the report or recommendations or (if later) the date when the Monitoring Officer received the notice.



# **Broxtowe Borough Council Constitution**

## **Chapter 2 – Part 8-17**

### **Committee Arrangements**

## 8. Policy Advisory Committee

**Note:** The Policy Advisory Committee is a Committee of the Cabinet,

### Rules

The following Rules apply to this Committee:-

- Council Procedure Rules 4 – 7 and 12 – 21.
- The Access to Information Procedure Rules.

### Membership, Chair and Quorum

Substitute Members Permitted	No
Political Proportionality Rules Apply	At the Leader's discretion
Appointments / Removals	The Leader
Restrictions on Membership	<ul style="list-style-type: none"><li>· Must have at least one Cabinet Member on the Committee</li></ul> <p>The following Councillors may not serve on the Policy Advisory Committee;</p> <ul style="list-style-type: none"><li>· Members of the Overview and Scrutiny Committee or their Substitutes</li><li>· The Chair or Vice-Chair of a Regulatory Committee</li><li>· The Mayor or Deputy Mayor</li></ul>
Restrictions on Chair / Vice Chair	As above
Quorum	One quarter (1/4) of Members rounded up to be no less than 3
Number of Ordinary Meetings per Council Year	Up to 8
Sub-Committee	The Policy Advisory Committee may convene Sub Committees, as required

## **Remit and Terms of Reference**

1. To support and assist the Cabinet by making recommendations towards the implementation of the work programme as directed by the Leader, including the development of policies and strategies for:-
  - Resources and Personnel Policy
  - Economic Development and Asset Management
  - Housing
  - Leisure and Health
  - Environment and Climate Change
  - Community Safety

## **9. Governance, Audit and Standards Committee**

### **Rules**

The following Rules apply to this Committee:-

- Council Procedure Rules 4 – 7 and 12 – 21.
- The Access to Information Procedure Rules.

### **Membership, Chair and Quorum**

Substitute Members Permitted	Yes
Political Proportionality Rules Apply	Yes
Appointments / Removals	Council
Restrictions on Membership	<ul style="list-style-type: none"><li>· The Leader, Deputy Leader and Cabinet Members may not serve on this Committee.</li><li>· Members of this Committee must have completed training for the Standards Hearings Sub Committee</li></ul>
Restrictions on Chair / Vice Chair	As above

Quorum	One quarter (1/4) of Members rounded up to be no less than 3
Number of Ordinary Meetings per Council Year	Not less than 4
Sub-Committee <ul style="list-style-type: none"> <li>· Standards Hearing Sub-Committee (3 Members; Quorum of 2 Members)</li> <li>· Advisory Shareholder Sub Committee (5 Members; Quorum of 3 Members)</li> </ul>	<ul style="list-style-type: none"> <li>· The Committee may appoint Sub-Committees to which it can delegate elements of its work, or which it can ask to advise on certain matters.</li> <li>· The Committee shall appoint as required as:-               <ul style="list-style-type: none"> <li>○ Standards Hearing Sub-Committee</li> <li>○ Advisory Shareholder Sub Committee</li> </ul> </li> </ul>

### Remit and Terms of Reference

1. To determine responses on behalf of the Council to any government, local authority or other consultation on matters within the remit of the Committee.
2. The functions conferred in relation to Member standards of conduct by the Local Government Act 2000, the Localism Act 2011 and associated legislation.
3. Without prejudice to the generality of the foregoing:
  - 3.1 promoting and maintaining high standards of conduct for all Members and Officers;
  - 3.2 preparing for adoption or revision by the Council policies and Codes of Conduct for Members, Co-opted Members and Officers;
  - 3.3 monitoring the operation of the Codes of Conduct;
  - 3.4 granting dispensations to Members (including co-opted Members) from requirements relating to interests set out in the Members' Code of Conduct unless otherwise determined by the Monitoring Officer;
  - 3.5 advising and ensuring training for Members, Co-opted Members and Officers on matters relating to conduct;

- 3.6 considering, determining and dealing with matters referred by the Monitoring Officer;
  - 3.7 considering, determining and dealing with matters referred by the Chief Executive or Monitoring Officer under the Council's Whistleblowing Policy;
  - 3.8 monitoring the complaints made against the Council including those made via the Local Government and Social Care Ombudsman;
  - 3.9 making recommendations to Council and for The Leader or Group Leaders in relation to conduct and standards matters;
  - 3.10 undertaking functions in relation to Member standards of conduct in respect of Parish Councils / Town Councils within the Council's area;
  - 3.11 Overview of the Council's Constitution and consideration of proposed amendments or revisions to the Constitution including the Schemes of Delegation, Procedure Rules and Protocols;
  - 3.12 recommend to the Council amendments to this Constitution.
4. The Committee will:
- 4.1 oversee the arrangements for the maintenance of the Council's internal control environment;
  - 4.2 monitor the operation of this Constitution and recommend amendments to it for the approval of the Council;
  - 4.3 monitor and make recommendations regarding the Council's corporate governance arrangements including the appointment of the external auditor;
  - 4.4 consider ways of achieving reductions in ongoing financial commitments through a review of essential and desirable services and service levels;
  - 4.5 identify opportunities for future income generation and cost savings;
  - 4.6 examine further procurement and collaborative working opportunities with the private sector and other local authorities.
5. Consider the Council's published financial accounts and associated documents, including the Annual Governance Statement, and give approval to them when satisfied.
6. Review the work of the internal audit section including the approval of an audit strategy and annual audit plans.

7. Consider significant issues arising from internal audit reviews, make recommendations accordingly and monitor management's response.
8. Receive reports from the Council's external auditors, the Council's internal auditor and from any inspection agencies and monitor action in response to any issues raised.
9. Oversee the effectiveness of the Council's risk management procedures, the control environment and associated fraud and anti-corruption arrangements including the approval of amendments to the strategic risk register and associated action plans.
10. Monitor and review the Council's business continuity arrangements.
11. The power to make payments or provide other benefits in cases of maladministration (section 92 Local Government Act 2000).
12. To receive reports directly from the Chief Audit and Control Officer as and when he/she thinks fit.
13. To receive reports directly from the Council's external auditors as and when appropriate.
14. The Committee may appoint Sub-Committees/panels comprising a proportionate combination of three Members of the main Committee.
15. Consider in detail polling district boundaries for the Borough Council's administrative area and any necessary changes to ensure that:-
  - 15.1 electors have such reasonable facilities for voting as are practicable in the circumstances;
  - 15.2 as far as is reasonable and practicable, that polling places are accessible to all electors, including those who are disabled, and when designating a polling place, have regard to the accessibility needs of disabled persons.
16. Consider polling places for the Borough Council's administrative area.
17. Consider the warding arrangements for Broxtowe to ensure electoral equality in all areas.
18. Consider the boundaries of Parish Councils in the Borough and warding arrangements in those areas, if appropriate.
19. Consider the names of Borough Council and Parish Council Wards.

### **Standards Hearing Sub-Committee**

1. Number of Members: 3 (politically proportionate).
2. To carry out hearings into complaints and if appropriate make recommendations to full Council or to the Leader or Group Leaders as to action or sanctions under the Code of Conduct for Members in accordance with the Councils arrangements and any other matters as delegated by the Governance, Audit and Standards Committee.
3. Meetings / hearings to be called by the Monitoring Officer as necessary to deal with complaints under the Code of Conduct for Members.
4. Members of the Standards Hearing Sub-Committee shall undertake training on the Code of Conduct for Members.

### **Advisory Shareholder Sub-Committee**

1. Number of Members: 5 (politically proportionate)
2. The Advisory Shareholder Sub-Committee may co-opt and / or otherwise engage the services of such external consultants and advisors as may be required from time to time, including but not limited to, auditors.
3. Meetings shall be held as necessary and not less than once each year. The quorum for meetings is 3
4. The Advisory Shareholder Sub-Committee acts in an advisory capacity and is not a decision-making body.
5. The Advisory Shareholder Sub-Committee shall assist, support and advise the Portfolio Holder for Resources and Personnel Policy and the Cabinet in its exercise of the Council's function as the shareholder of the Council's companies.
6. Without prejudice to the generality of clause 5 above, the Advisory Shareholder Sub-Committee shall consider the business plans and financial performance of the Council's companies in respect of which it may advise and make recommendations to the Portfolio Holder for Resources and Personnel Policy and the Cabinet in respect of its exercise of the shareholder function.

### **Delegations**

The Governance, Audit & Standards Committee may delegate matters falling within its remit as permissible under the law unless otherwise delegated or reserved under this Constitution.

## **10. Licensing and Appeals Committee**

### **Rules**

The following Rules apply to this Committee:-

- Council Procedure Rules 4 – 7 and 12 – 21.
- The Access to Information Procedure Rules.
- Council's Hearing Procedure Rules.

### **Membership, Chair and Quorum**

Substitute Members Permitted	No
Political Proportionality Rules Apply	Yes
Appointments / Removals	Council
Restrictions on Membership	<ul style="list-style-type: none"><li>· Members of the Licensing &amp; Appeals Committee must complete training prior to attending a meeting of the Committee.</li></ul>
Restrictions on Chair / Vice Chair	As above
Quorum	One quarter (1/4) of Members rounded up to be no less than 3
Number of Ordinary Meetings per Council Year	Not less than 4
Sub-Committee <ul style="list-style-type: none"><li>· Licensing Appeal Panel</li><li>· Alcohol and Entertainments Licensing Panel</li></ul>	The Committee shall convene a Licensing Appeal Panel and a Alcohol & Entertainments Licensing Panel as required.

### **Remit and Terms of Reference**

1. To determine responses on behalf of the Council to any government, local authority or other consultation on matters within the remit of the Committee.
2. All the functions of the licensing authority capable of being performed by a licensing committee established under section 6 Licensing Act 2003; section 154 Gambling Act



2005, including (for the avoidance of doubt) the powers in section 212 Gambling Act 2005 (setting of fees), but (for the avoidance of doubt) not the powers contained in the LG(MP)A 1978 in relation to hackney carriage and private hire licensing vehicles which is for the consideration of the Cabinet.

3. The Committee may appoint a Licensing Appeal Panel (sub-committee) comprising of a politically proportionate combination of three or five Members of the main Committee.
4. A Licensing Appeal Panel is delegated all the functions capable of being exercised by the Committee.

### **Licensing Appeal Panel / Alcohol and Entertainments Appeal Panel**

1. The functions of the Council relating to licensing and registration and the consideration and determination of appeals against the Council's decision across the full range of the Council's functions not otherwise provided for including hazardous substances consent, intentional homelessness, arrangements for Joint Negotiating Committee appeals, grievance and disciplinary appeals, including all those functions conferred on the Council or on a licensing committee by the Licensing Act 2003 and the Gambling Act 2005.
2. Without prejudice to the generality of the foregoing the consideration and determination of applications for licences permits and registration not otherwise delegated.
3. The enforcement of the functions of the Committee and the making and reviewing of policies concerning those functions, save for policies reserved for approval by full Council.
4. To make determinations in respect of the Scrap Metal Dealers Act 2013.

### **Delegations**

The Licensing and Appeals Committee may delegate matters falling within its remit as permissible under the law unless otherwise delegated or reserved under this Constitution.

## 11. Planning Committee

### Rules

The following Rules apply to this Committee:-

- Council Procedure Rules 4 – 7 and 12 – 21.
- The Access to Information Procedure Rules.
- Probity in Planning: Code of Good Practice for the Planning Service.

### Membership, Chair and Quorum

Substitute Members Permitted	Yes
Political Proportionality Rules Apply	Yes
Appointments / Removals	Council
Restrictions on Membership	<ul style="list-style-type: none"><li>· Members of the Planning Committee must complete training prior to attending meetings of the Planning Committee</li></ul>
Restrictions on Chair / Vice Chair	As above
Quorum	One quarter (1/4) of Members rounded up to be no less than 3
Number of Ordinary Meetings per Council Year	Not less than 11

### Remit and Terms of Reference

1. The functions of the Council relating to town and country planning and development control other than where they are required to be exercised by full Council.
2. Without prejudice to the generality of the foregoing, the functions of the Council in the areas at 3 – 18 below.
3. In association with the Cabinet to propose matters of planning policy to the Council in accordance with Part II of the Town and Country Planning Act 1990.

4. The determination of applications for planning permission listed building and conservation area consent, consent for the display of advertisements and all matters capable of being dealt with by a regulatory Committee for development control and building control.
5. The power to enter into agreements regulating the development and use of land including s106 Agreements.
6. The power to grant conservation area consent and hazardous substances consent.
7. The power to require the discontinuance of a use of land.
8. The power to serve a completion notice under Section 94(2) Town and Country Planning Act 1990.
9. The Council's powers in respect of tree preservation.
10. The Council's development control and building control enforcement powers.
11. The power to create, stop up and divert footpaths and bridleways.
12. The functions detailed in Schedules 1 and 2 to The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 in respect of:
  - 12.1 town and country planning and development control;
  - 12.2 footpaths and bridleways and other public rights of way;
  - 12.3 trees and hedgerows.
13. The functions of the Council under the Planning and Compulsory Purchase Act 2004 and in particular the functions relating to local development plan documents under sections 20 to 23 and 25, 26 and 28 of the Planning and Compulsory Purchase Act 2004.
14. Enforcing section 224 Town and Country Planning Act 1990 (control of advertisements).
15. To authorise the making of conservation areas.
16. To authorise directions under Article 4 Town and Country Planning (General Permitted Development) Order 1995.
17. To determine responses on behalf of the Council to any government, local authority or other consultation on matters within the remit of the Committee.

## **Delegations**

The Planning Committee may delegate matters falling within its remit as permissible under the law unless otherwise delegated or reserved under this Constitution.

## 12. Overview & Scrutiny Sub-Committee

See Overview & Scrutiny Arrangements and Procedure Rules at Chapter 2 Part 7.

## 13. Senior Officer Employment Committee

### Rules

The following Rules apply to this Committee:-

- Council Procedure Rules 4 – 7 and 12 – 21.
- Council Hearing Procedure Rules.

### Membership, Chair and Quorum

Number of Members	5
Substitute Members Permitted	Yes
Political Proportionality Rules Apply	Yes
Appointments / Removals	Council
Restrictions on Membership	<ul style="list-style-type: none"><li>• The Committee must include at least one Cabinet Member.</li><li>• If the Committee is considering the dismissal of the HOPS; MO or s151 Officer or any other Chief Officer, two independent persons must be co-opted.</li><li>• Members of the Committee must be complete training prior to attending meetings of the Committee</li></ul>
Restrictions on Chair / Vice Chair	As above
Quorum	One quarter (1/4) of Members rounded up to be no less than 3
Number of Ordinary Meetings per Council Year	As required.

Sub-Committee – Hearing Panel	A Senior Officer Employment Hearing Panel shall be convened as required.
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### **Remit and Terms of Reference**

1. To short list and interview candidates for the posts of Head of Paid Service and Chief Officers including the Monitoring Officer, Section 151 Officer and any other Chief Officer.
2. To recommend to full Council the appointment of the Head of Paid Service, the Monitoring Officer, Section 151 Officer and any other Chief Officer.
3. To recommend to the Chief Executive (as Head of Paid Service) all permanent appointments to Chief Officer posts.
4. To determine matters, other than those which under the law must be referred to full Council, relating to severance agreements for Chief Officers and Statutory Officers.
5. To determine matters, other than those which under the law must be referred to full Council, involving the discipline and suspension of Chief Officers and Statutory Officers.
6. To investigate, concerns in relation to the proposed dismissal of the Head of Paid Service, the Monitoring Officer, Section 151 Officer and any other Chief Officer subject to the Committee containing two Independent Persons when performing this function.
7. To determine any other matters referred to it by full Council.
8. Providing advice, views and recommendations to Council in respect of the dismissal of any Statutory or Chief Officer, subject to the Committee containing two Independent Persons when performing this function.
9. The functions of an Investigating and Disciplinary Committee under the JNC Conditions of Service Handbook for Chief Executives, 7 September 2022.

## **14. The Discretionary Housing Payments Panel**

### **Rules**

The following Rules apply to this Panel:-

- Council Procedure Rules 4 – 7 and 12 – 21.

### **Membership, Chair and Quorum**

Number of Members	3
Substitute Members Permitted	Yes
Political Proportionality Rules Apply	Yes
Appointments / Removals	Council
Restrictions on Membership	<ul style="list-style-type: none"><li>· Members of the Panel must complete training on the discretionary Housing Payment Scheme prior to attending meetings of the Panel.</li></ul>
Restrictions on Chair / Vice Chair	As above
Quorum	One quarter (1/4) of Members rounded up to be no less than 2
Number of Ordinary Meetings per Council Year	As required.
Hearing Panel	A Hearing Panel shall be convened as required.

### **Remit and Terms of Reference**

1. To consider applications for Discretionary Housing Payments in accordance with the Councils policy.

3. Meetings to be called by the Monitoring Officer as necessary to deal with applications.

**15. Functions Performed by The Local Joint Consultative Committee ('LJCC')**

The LJCC is the forum between Members of the Council and representatives of the employees of the Council set up to consider matters of common interest, further good relations between Members and Officers and make recommendations to the Cabinet, at Chapter 6 appendix 3.

**16. Functions Performed by The Bramcote Bereavement Services Joint Committee**

As set out in the agreement with Erewash Borough Council at Chapter 6 appendix 4.

**17. Functions Performed by The Economic Prosperity Committee**

As set out at Chapter 6 appendix 5.

# **Broxtowe Borough Council Constitution**

## **Chapter 3 – Part 1**

### **Scheme of Delegation**



## **Chapter 3 Part 1: THE SCHEME OF DELEGATION**

### **1. Introduction to the Scheme of Delegation**

- 1.1 Under the Local Government Act 1972 and the Local Government Act 2000 the Council has arranged for the discharge of its functions and responsibilities by the Council bodies detailed below and as set out in the corresponding section of this Constitution:
  - 1.1.1 The Council (Chapter 2 Part 1& 2);
  - 1.1.2 The Cabinet (Chapter 2 Part 3);
  - 1.1.3 Committees (Chapter 2 Part 8 -17);
  - 1.1.4 Officers (Chapter 3 this Part 1 – the Officer Scheme of Delegation;
- 1.2 The exercise of delegated powers is subject to the restrictions set out at paragraph 3 below:
- 1.3 Where a power has been delegated, the Council, Cabinet or Committee, or in the case of an Officer Sub-Delegation, the delegating Officer, may still exercise that power in a particular instance if considered appropriate. Equally, any matter may be referred up to the source of the delegation for determination.
- 1.4 Where the name of a post is changed, or its relevant functions become vested in a different post, any delegated powers possessed by the post shall be retained by the renamed post or transferred to the different post as the case may be. This includes any delegated powers vested in a post by resolution of the Council, the Cabinet, or a Committee/Sub Committee.

In the event of a restructure the Chief Executive shall have authority to re-allocate the delegated powers to other posts and shall give notice of this to the Monitoring Officer and the Head of Legal Services. Any use of the Chief Executive's exercise of this delegated power must be reported to the Council and/or to the Cabinet as soon as practicable.

## **The Officer Scheme of Delegation**

### **1. Introduction to the Officer Scheme of Delegation**

- 1.1 This Officer Scheme of Delegation (OSD) is for the Officers of the Council. 'Officers' are defined as all employees and staff employed or engaged by the Council to carry out its functions. It includes those under short-term, agency, or other non-employed situations. It

does not apply to any person employed by contractors who are carrying out work or duties for the Council under contracts.

- 1.2 The OSD has been adopted by the Council and sets out the extent to which the powers and duties of the Council are delegated to Officers under the Local Government Act 1972, the Local Government Act 2000 (as amended) and all other powers enabling the delegation of Executive and Non-Executive functions to Officers.
- 1.3 The OSD is intended to provide a streamlined, clear and simple decision-making process and empower Officers to carry out their functions and deliver the Council's services within the Budget and Policy Framework set by the Council, and subject to the guidelines set by the Council, the Cabinet and the Council's management team. The OSD should be interpreted widely.
- 1.4 All references to legislation shall be deemed to include any subsequent amendments to such legislation.
- 1.5 In this OSD references to powers and functions of 'the Council' include the powers and functions of the Cabinet (Executive).
- 1.6 The delegations under this OSD are intended to be cumulative. Each delegation may be read on its own unless it is specifically expressed to be subject to another.
- 1.7 An Officer to whom a power has been delegated may Sub-Delegate that power to another appropriate Officer(s) following consultation with the Chief Executive and Monitoring Officer. A record of any delegations shall be provided to the Monitoring Officer, Head of Legal and Head of Governance for their records.
- 1.8 Where an Officer has delegated powers, the Council, the Cabinet, a Committee or a delegating Officer (as the case may be) can still exercise that power in a particular case if it considers it appropriate to do so. It remains open to an Officer not to exercise delegated powers and instead refer the matter up to the source of their delegated power for determination.

## **2. Functions which are Not Delegated**

- 2.1 This OSD does not delegate to Officers:
  - 2.1.1 any matter reserved to full Council by law or otherwise in accordance with this Constitution;
  - 2.1.2 any matter which by law may not be delegated to an Officer;
  - 2.1.3 any Key Decision;

- 2.1.4 any matter expressly withdrawn from delegation by the Council, Committees, Leader or Cabinet or delegating Officer (as the case may be).

### **3. Restrictions**

- 3.1 The exercise of delegated powers by an Officer is subject to:

- 3.1.1 any statutory restrictions;
- 3.1.2 the Budget and Policy framework;
- 3.1.3 any provision of this Constitution including the Financial Regulations, Procurement Regulations and Procedure Rules;
- 3.1.4 any financial limits set out in the revenue or capital budgets except as set out in the Financial Regulations set out at Chapter 4 Part 1&2;
- 3.1.5 any policy set by the Council or its Committees, the Cabinet, the Leader or Chief Executive;
- 3.1.6 the Employee Code of Conduct;
- 3.1.7 consultation (as applicable).

### **4. Consultation and Liaison**

- 4.1 When exercising delegated powers Officers must consult as appropriate, give due regard to any advice received and keep Councillors and relevant other Officers properly informed of actions arising within the scope the delegation exercised.

### **5. Transfer of Functions**

- 5.1 Where the name of a post is changed, or its relevant functions become vested in a different post, any delegated powers possessed by the post shall be retained by the renamed post or transferred to the different post as the case may be. This includes any delegated powers vested in a post by resolution of the Council, the Cabinet, or a Committee/Sub Committee.
- 5.2 In the event of a restructure the Chief Executive shall have authority to re-allocate the delegated powers to other posts and shall give notice of this to the Monitoring Officer. Any use of this delegated power must be reported to the Council and/or to the Cabinet as soon as practicable.

## **6. Proper Officer Functions and Delegations**

- 6.1 Officers designated by the Council as “Appropriate” or “Proper” Officer” for the purposes of any statutory function (including where necessary or convenient having regard to any professional or technical requirements of an Officer who is not an employee of the Council) and their functions are set out at the Schedule of Proper Officer Functions & Delegations below.

## **7. The Council’s Statutory Officers and Management Structure**

The Council shall engage such Officers as considered necessary for the discharge of its functions.

### *The Statutory Officers & The General Management Team*

- 7.1 The Council’s Statutory Officers are:

- 7.1.1 The Head of Paid Service (Chief Executive);
- 7.1.2 The Deputy Chief Executive/Section 151 Officer;
- 7.1.3 The Monitoring Officer.

- 7.2 The Statutory Officers together with the Executive Director are the Council’s ‘Chief Officers’ and comprise the Council’s General Management Team.

### *The Senior Management Team*

- 7.3 The Senior Officers listed below are part of the Council’s Senior Management Team and they have delegated authority within the terms of this Constitution for their areas of responsibility as set out further below, without limitation, at paragraphs 13 – 24.

- 7.3.1 Head of Legal Services & Deputy Monitoring Officer;
- 7.3.2 Head of Governance and Deputy Monitoring Officer;
- 7.3.3 Head of Finance Services;
- 7.3.4 Head of Planning & Economic Development;
- 7.3.5 Head of Asset Management;
- 7.3.6 Head of Housing;
- 7.3.7 Head of Environment Services;

7.3.8 Head of Revenue, Benefits & Customer Services;

7.3.9 Head of Administrative Services;

7.3.10 Chief Environmental Health Officer;

7.3.11 Chief Communities Officer.

7.4 The following Senior Officers are also members of the Council's Senior Management Team:

7.4.1 ICT and Business Transformation Manager;

7.4.2 Payroll and Job Evaluation Manager;

7.4.3 Health and Safety and Emergency Planning Manager;

7.4.4 Corporate Communications Manager;

7.4.5 Human Resources Manager;

7.4.6 Commercial Manager.

## **8. Delegation of General Powers**

8.1 The delegation to Chief Officers and Senior Officers shall include:-

8.1.1 All powers under all present and future legislation relevant to their areas of responsibility and the discharge of their duties and functions, including all powers incidental and/or conducive to that legislation, their areas of responsibility and the discharge of their duties and functions. All such functions must be managed in accordance with Council policies, strategies and procedures and all applicable law. It shall be the responsibility of each chief Officer to liaise with their senior Officers as to the discharge of their delegated functions to ensure it aligns with corporate policy.

8.1.2 The power to authorise the exercise of the delegated powers of decision by such other Officers as may be deemed appropriate for the proper and efficient performance of the work. A record of any delegations shall be provided to the Monitoring Officer and Head of Legal and Head of Governance (The Deputy Monitoring Officers) for their retention.

8.2 If the Officer to whom a function has been delegated is unable to act due to a conflict of interest, a conflict of opinion with a Chief Officer or any other reason, then it is for the

Chief Executive to determine who should exercise that function. If the Chief Executive is unable to act due to a conflict of interest, or any other reason, then it is for the Section Deputy Chief Executive/Section 151 Officer to determine who should exercise that function. If the Chief Executive and Deputy Chief Executive/Section 151 Officer are unable to act due to a conflict of interest, or any other reason, then the function can be exercised by any Chief Officer from the General Management Team.

- 8.3 Subject to any statutory restrictions or as otherwise provided for in this Constitution, the powers of a Statutory Officer/Chief Officer, Proper Officer or Senior Officer may be exercised by their nominated deputies or any other authorised Officer.
- 8.4 A Statutory Officer/Chief Officer, Proper Officer or Senior Officer may, so far as permissible under the law or otherwise as provided for in this Constitution, sub-delegate their powers within their area of responsibility (including cross-service delegation where appropriate).

### **Chief Officer Responsibilities and Specific Delegated Powers**

Without limitation the responsibilities and specific delegated powers of the Chief Officers are as set out below.

#### **9. The Chief Executive (Head of Paid Service)**

- 9.1 To act as the Council's Head of Paid Service and to undertake the associated duties as set out in Section 4 of the Local Government and Housing Act 1989.
- 9.2 To lead, manage and direct all Officers of the Council in providing a corporate, co-ordinated, cross-functional approach towards Strategy and Policy Development and the delivery of services for the Council.
- 9.3 To deal with the grant and supervision of exemptions from political restrictions in respect of the relevant Council's posts.
- 9.4 To review the Whistleblowing Procedure for Employees.
- 9.5 To review the Employee Code of Conduct.
- 9.6 In consultation with the HR Manager, to deal with all matters other than those reserved to the Council relating to the recruitment, appointment, remuneration, conditions of service, discipline, dismissal, superannuation, qualifications, training, job evaluation, promotion, safety and provision of welfare facilities of all employees of the Council (including

settlement of claims up to £25,000 after consultation with the Monitoring Officer and Deputy Chief Executive/Section 151 Officer if within existing budgets).

- 9.7 To act as the Council's Returning Officer for the elections of Councillors of the Borough, Electoral Registration Officer for the Borough and Proper Officer for Parish polls under the Local Government Act 1972.
- 9.8 To act as the Council's Emergency Planning Officer in both wartime and peacetime emergencies and to liaise as necessary with neighbouring authorities, government departments, agencies and other bodies.
- 9.9 To perform the functions of the Council in respect of crime reduction including the payment of grants within the policy and budget of the Crime and Disorder Reduction Partnership.
- 9.10 The Chief Executive, following consultation with the Leader of the Council and, where possible, the Leader of the Opposition, shall have the power to allocate any new functions of the Council, or a function which has not been allocated under this Scheme, to the Officer (including the Chief Executive), which the Chief Executive considers most appropriate to perform the function. This enhances delegated urgency powers to the Chief Executive in light of any pandemic or other such circumstances.
- 9.11 In consultation with the Leader of the Council, and other recognised group Leaders, to nominate or recommend any appointment to Liberty Leisure Ltd on behalf of the Council as shareholder.
- 9.12 In consultation with the Leader of the Council and where possible, the Leader of the Opposition to authorise the taking or carrying out of action, notwithstanding anything on the Council's Procedure Rules or Financial Regulations, where they consider that circumstances exist that make it expedient or necessary for action to be taken prior to the time when such action could be approved through the normal Council procedures. A report on such action, and the circumstances justifying the exercise of the delegated powers, shall be made to the next meeting of the Council as appropriate.
- 9.13 Any action in accordance with the Council's agreed policies and procedures with respect to the recruitment, appointment, promotion, training, grading, discipline, determination of wages and salary scales, determination of allowances, determination and application of conditions of service, including but not limited to allocation of leave, honorariums, ill health retirement and determination of establishment.

## **10. The Deputy Chief Executive/Section 151 Officer**

10.1 The Deputy Chief Executive shall deputise for the Chief Executive in their absence or where they are unable to act unless prohibited from doing so under the law or otherwise by any provision of this Constitution.

10.2 To perform the Council's commercial services function.

10.3 The Deputy Chief Executive is the Council's Deputy Chief Executive/Section 151 Officer and in such capacity:-

### **10.1.1 Ensuring Lawfulness and Financial Prudence in Decision-Making**

After consulting with the Head of Paid Service and the Monitoring Officer, the Deputy Chief Executive/Section 151 Officer shall report to the Council, the Cabinet or appropriate Committee (as the case may be) and the Council's external auditor, any proposal, decision or course of action which in the opinion of the Deputy Chief Executive/Section 151 Officer will incur unlawful expenditure or is otherwise unlawful and likely to cause a loss or deficiency, or where the Council is about to enter an item of account unlawfully.

### **10.1.2 Administration of Financial Affairs**

- (a) The Deputy Chief Executive/Section 151 Officer shall be responsible for the administration of the financial affairs of the Council pursuant to section 151 of the Local Government Act 1972;
- (b) To make arrangements for the provision and operation of any treasury management, banking and insurance services including the authorisation of any transaction; signing of cheques or other financial instrument; provision of indemnities; agreement of terms for the raising, repayment or cancellation of loans, investments and leases;
- (c) To take any action to recover debts due to the Council and to write off debts considered to be irrecoverable for any proper reason;
- (d) To authorise arrangements for the disposal of surplus or obsolete assets and consequential accounting entries;
- (e) To determine all financial matters specified within statutory provisions and not reserved therein to the Council;



- (f) To allocate budgetary provision from approved contingencies and earmarked reserves;
- (g) To make arrangements for the provision of an internal audit service to the Council;
- (h) Negotiate and settle the Council's insurance claims through insurers up to a financial limit determined by policy;
- (i) Together with the Chief Executive and the Monitoring Officer 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 support and advise Councillors and Officers in their respective roles.

10.4 In consultation with the Head of Finance and Head of Revenue, Benefits & Customer Services:

- 10.4.1 Give financial information and provide financial information to the media, Members of the public and the community;
- 10.4.2 Write off debts to the limit set in Financial Regulations;
- 10.4.3 Grant non-domestic rating discretionary relief;
- 10.4.4 Assess and determine applications regarding the Policy on Discretionary Council Tax Discounts.

10.5 To discharge the Council's functions in respect of:

- 10.5.1 The Administration of benefits, including determination of entitlement and the award of discretionary housing benefits;
- 10.5.2 The Collection of revenues due to the Council under currently prevailing legislation relating to local government finance;
- 10.5.3 The Determination and declaration of the appropriate local average rate in March and September each year in respect of Council mortgages and perform and consequential administration;
- 10.5.4 Appearance at hearings of the Valuation Tribunal;

- 10.5.5 The recovery of rates and Council Tax including the appointment of enforcement agents for this purpose and the pursuit of court proceedings in consultation with the Head of Legal Services, where appropriate;
- 10.5.6 The Management of the Council's investments and debts, including the appointments of external investment managers and brokers, in accordance with the Council's adopted Treasury Policy Statement;
- 10.5.7 The Appointment of, and liaison with, insurers;
- 10.5.8 Unless otherwise delegated, the determination of tenders in respect of all activities in accordance with relevant legislative requirements and organisation and performance of all works in relation thereof;
- 10.5.9 The negotiation and acceptance of quotations from contractors for works classified as part of tenders within limits specified in the Financial Regulations;
- 10.5.10 The reduction or remittance of the charge for non-domestic rates on occupied and unoccupied properties on grounds of hardship, under Section 49 of the Local Government Finance Act 1988.

## **11. The Monitoring Officer**

- 11.1 The Monitoring Officer is the Council's Monitoring Officer for the purpose of section 5 of the Local Government and Housing Act 1989.
- 11.2 The Monitoring Officer has the following specific functions:
  - 11.2.1 To report to the Council, if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission would give rise to a finding of maladministration, after such consultation with the Chief Executive and the S151 Officer. Such a report, once issued, will have the effect of stopping the proposal or decision being implemented until the report has been considered;
  - 11.2.2 To maintain an up-to-date version of the Constitution and ensure that it is widely available to Members, staff and public, to include the recording of any changes ensuring that all administrative changes are made in consultation with the Chief Executive, Leader and Leader of the Opposition, save where such consultees object to the proposed changes in which case the matter shall be determined by the Council;
  - 11.2.3 To provide support and advice to the Cabinet, Committees and Officers;

- 11.2.4 To provide advice to all Members on issues in relation to the scope of powers and authority to take decisions, interests, maladministration, financial impropriety, probity and the Budget and Policy Framework;
- 11.2.5 To provide advice support the Council's Standards' Complaints Officer, undertake an initial assessment of complaints made under the Code of Conduct for Members and in consultation with an Independent Person, determine any further action to be taken;
- 11.2.6 In consultation with the with Head of Legal Services and/or other Senior Offices as may be appropriate, deal with matters concerning regulators and ombudsmen.

## **12. Executive Director**

- 12.1 To determine corporate complaints and to make payments for maladministration and other similar compensation awards by the Council up to a limit of £5,000.
- 12.2 To negotiate compensation claims by or against the Council up to the maximum currently set out in Financial Regulations in capital consideration in each case or weekly compensation not exceeding that sum in each case.
- 12.3 To perform the Council's, Environmental Services, Governance, Administration, Payroll and Job Evaluation, ICT and Business Transformation, Health, Safety and Emergency Planning, Corporate Communication and Civic Office functions.
- 12.4 To perform functions in relation to Climate Change matters.
- 12.5 To act as the Council's Data Protection Officer as required by relevant legislation.
- 12.6 To act as the Council's Senior Information Risk Owner (SIRO).

## **Senior Management Team Responsibilities and Specific Delegated Powers**

Without limitation the responsibilities and specific delegated powers of the Senior Management Team are as set out below.

## **13. Head of Legal Services and Deputy Monitoring Officer**

- 13.1 Legal services Affixing the Common Seal of the Council.
- 13.2 Certifying true copies.
- 13.3 To determine, authorise and issue any Notice, decision, proceedings (to include criminal and civil proceedings) and appeals on behalf of the Council.

- 13.4 To exercise discretion in consultation with the S151 Officer to settle court and tribunal proceedings and other potential proceedings.
- 13.5 To authorise, in conjunction with the Chief Executive, Officers under Section 223 of the Local Government Act 1972 to appear on behalf of the Council in proceedings before the Magistrates' Court where those Officers would otherwise not have rights of audience before the court.
- 13.6 To arrange and authorise the signing of a contract under seal such signing to be witnessed by an Officer or Member of the Council and registered in a book kept for that purpose by the Monitoring Officer.
- 13.7 To confirm unopposed public path orders and tree preservation orders.
- 13.8 To determine applications for the Register of Community Assets and applications for compensation.
- 13.9 To approve Wayleave Agreements.
- 13.10 To authorise any person or sign any Notice to enable the use of the Council's powers of entry to land or property including applications to the court to enforce or ensure that the power of entry can be exercised.
- 13.11 To determine, prepare and serve applications for Certificates of Lawful Use or Development notices and directions subject to prior approval with the Head of Planning and Economic Development or his or her nominated Officer.
- 13.12 To enter into an agreement regulating the development or use of land in consultation with the Head of Planning and Economic Development (Section 106 Town and Country Planning Act 1990).
- 13.13 To determine appeals in relation to compensation for matters relating to the Register of Community Assets.
- 13.14 To determine and issue any Notice, decision, proceedings, appeals not otherwise delegated to Officers (other than where prohibited by statute) or in circumstances where that Officer is unable to exercise his or her delegated authority.

#### **14. Head of Governance & Deputy Monitoring Officer**

- 14.1 To perform, the Council's Governance functions.
- 14.2 To perform the Council's Information Governance functions.

- 14.3 To perform the Council's Democratic Services functions.
- 14.4 To perform the Council's Parking Services functions.
- 14.5 To perform the Council's Surveillance functions.
- 14.6 To perform the Council's Complaints functions.
- 14.7 To ensure that all decisions, reasons for those decisions, relevant Officer reports and background papers are made publicly available as soon as possible.
- 14.8 To act as the Council's Senior Responsible Officer under the Surveillance Commissioner Code of Practice.

## **15. Head of Finance Services**

- 15.1 To perform the Council's Financial Management functions to manage the finances in an efficient manner such that the Council has sufficient financial resources to enable it to successfully implement its policies and plans.
- 15.2 To perform the Council's Accountancy Services functions to prepare and monitor the Council's detailed financial plans and pay all creditors and collect all income due to the Council promptly.
- 15.3 To perform the Council's Treasury Management and Banking functions to manage the Council's debt portfolio, investments and banking arrangements, manage the risks associated with these activities and pursue optimum performance consistent with these risks.
- 15.4 To perform the Council's Internal Audit functions as a key component of the Council's governance framework to enhance and protect organisational value by providing risk-based and objective assurance, advice and insight.
- 15.5 To co-ordinate the Council's Fraud and Corruption prevention activity. The Council takes a zero-tolerance approach to fraud and corruption and is committed to establishing a strong anti-fraud and corruption culture.
- 15.6 To co-ordinate the Council's Business Planning and Performance Management framework, including support with the preparation of Business Plans and the suite of performance indicators and targets and the monitoring of these through the performance management system.
- 15.7 To perform the Council's Insurance and Risk Management functions to identify, arrange and monitor insurance requirements, including claims handling, and to implement risk

management initiatives which minimise the risk of injury or loss to customers, employees and other stakeholders and safeguard the Council's assets.

15.8 To co-ordinate the Council's Procurement and Commissioning activity to improve the delivery and cost effectiveness of high quality services across the organisation through the promotion of effective, prudent and innovative procurement and commissioning practices.

15.9 To perform the Council's Grant Aid activity to process applications for grant aid from voluntary organisations and individuals involved in sports or the arts.

## **16. Head of Planning & Economic Development**

16.1 To perform the Council's Planning regeneration and development management functions.

16.2 To manage the Council's shared Building Control functions.

16.3 To perform the Council's Street works functions.

16.4 To perform the Council's Planning policy functions.

16.5 To determine Planning applications accordingly.

16.6 To perform the Council's functions in relation to Economic Development, Investment Regeneration, and Local Enterprise Partnership.

16.7 To determine applications for planning permission, the need for prior approval, consent for the display of advertisements and listed building consent and the determination of or response to any other application or matter received in respect of the town and country planning function including Article 4 directions subject in each case to the proviso that any Member of the Council may bring the application before the Planning Committee for decision, and subject also to the provisos below:

16.7.1 Any application above that is contrary to policy made by a Member of the Council or by an Officer involved in the planning process, namely: Directors, Heads of Service and employees of the planning and building control sections shall be referred to Planning Committee for decision;

16.7.2 In consultation with Ward Members and the Chair and Vice Chair of the Planning Committee, the decision not to take enforcement action must only be made in consultation with the Head of Legal Services.

16.8 To determine planning enforcement action as may be necessary after prior consultation with Ward Members and the Chair of Planning Committee and the Head of Legal Services to include the:

16.8.1 Investigation leading to breach of condition notices;

16.8.2 Investigation leading to enforcement notices and injunctions;

16.8.3 Investigation leading to stop and temporary stop notices;

16.8.4 Investigations leading to untidy land notices or community protection notices.

16.9 To approve or reject plans deposited under the Building Regulations and to make a declaration that plans approved under the Building Regulations since 1 April 1974 are of no effect where work has not commenced on site within 3 years of deposit of plans.

16.10 To perform the Council's functions under the Building Act 1984 to include the issue of Notices under Section 36 of the Building Act 1984 (removal or alterations of work done in breach of Building Regulations) in consultation with the Head of Legal Services.

16.11 To exercise all local authority functions under the currently subsisting Building Act and Building Regulations.

16.12 To issue Notices requiring advance payment of Private Street Works charges under Section 220 of the Highways Act 1980 and Exemption Notices under Section 219 of the Highways Act 1980.

16.13 To enforce in respect of complaints Part 8 of the Anti-Social Behaviour Act 2003, including high hedges.

16.14 To determine street naming and numbering.

16.15 To authorise suitable bidding requests for grant aid for shop fronts and industrial improvement.

## **17. Head of Asset Management**

17.1 To deal with Capital Works Housing stock management and modernisations.

17.2 To deal with Housing Repairs and Compliance matters.

17.3 House Building Delivery – To consider and recommend housing building schemes.

17.4 Estate Management - Property/land acquisition and disposal (except housing stock).

- 17.5 To carry into effect approved capital and revenue programmes with regard to the Council's housing stock.
- 17.6 To manage and maintain buildings and lands held for directorate purposes including public car parks, industrial and commercial property.
- 17.7 To operate civil parking enforcement on and off street including those vested in the Council via an agreement with the County Council as Traffic Authority; save for the consideration of parking appeals referred back to the Council by the Traffic Penalties Tribunal.
- 17.8 In common with the Head of Legal Services acquisitions, appropriations and disposals of land or property (except Council Houses) not exceeding the value currently set out in Financial Regulations.
- 17.9 To consider, negotiate and determine all of the Council's acquisitions, appropriations and disposals of any land or property (except Council houses), lettings, negotiations and settlement of leases and rents for Council owned land or property (except Council houses), easements, licences or other rights or interests affecting the land whether granted or to be granted to or by the Council not exceeding the rental or capital consideration currently set out in Financial Regulations and in accordance with the Council's land disposal policy.
- 17.10 To negotiate and accept quotations from contractors for such related works classified as part of tenders within limits specified in the Financial Regulations.
- 17.11 To perform the function of requesting the County Council to apply to the Secretary of State for the closure or diversion of a public right of way on the grounds of crime reduction, following consultation with any Ward Members and the Crime and Disorder Reduction Partnership, for the purposes of the Countryside and Rights of Way Act 2000.
- 17.12 To consider and recommend investment in, improvement of and carbon reduction of the Council's housing stock.
- 17.13 To negotiate and accept quotations from contractors for works to the Council housing stock classified as part of tenders within limits specified in the Financial Regulations.

## **18. Head of Housing**

- 18.1 Housing Operations Management -The Council's functions as a housing provider and as regards its housing stock and housing revenue account.
- 18.2 The Council's functions as regards homelessness.



- 18.3 To deal with Income Management.
- 18.4 The Council's functions as regards to Housing Strategy.
- 18.5 To perform the Council's functions with regard to the Council's housing stock and housing revenue account property in accordance with all legislation relevant to housing and including homelessness, anti-social behaviour, and allocations.
- 18.6 To carry into effect approved capital and revenue programmes and approved policies with regard to the Council's housing stock.
- 18.7 To approve conditions of sale and administer, in conjunction with the Head of Legal Services, the right to buy, voluntary sales schemes and property purchases.
- 18.8 To award compensation under the Secure Tenants of Local Authorities (Compensation for Improvement) Regulations 1994 unless appropriate to exercise a discretion.
- 18.9 To recover rent, rates (from the Council's housing stock), including the appointment of agents for this purpose and pursuit of Court proceedings.
- 18.10 To approve bids and adaptations to Council properties up to a maximum of £30,000.
- 18.11 To consider and conduct reviews of Council homeless decisions and introductory tenancies.

## **19. Head of Environment Services**

- 19.1 To deal with Environmental services and waste collection services.
- 19.2 Vehicle, plant, equipment and facilities management, acquisition and disposal.
- 19.3 To deal with functions relating to Bereavement Services.
- 19.4 To carry into effect approved capital and revenue programmes with regards to the Council's vehicle fleet and improvements to public parks and green spaces.
- 19.5 To manage and maintain buildings and land held for Directorate purposes including Public Parks, Cemeteries, Woodlands, Play Areas, Recreational Grounds with associated Sports Facilities including Pavilions, Nature Reserves, The Nottingham Canal, public civil engineering assets and Allotments.
- 19.6 To manage and operate the licence, in accordance with statutory obligations, on behalf of the Council as Waste Collection Authority.

- 19.7 To manage and authorise the acquisition and disposal of all of the Council's vehicles and plant not exceeding the value currently set in the Financial Regulations.
- 19.8 To deal with all matters in relation to the provision of vehicles, facilities and equipment within the overall capital programme including power to negotiate and execute all leases for items of plant and equipment within the capital programme.
- 19.9 To establish and review as necessary internal rates in respect of labour, plant and materials.

**20. Head of Revenue, Benefits & Customer Services**

- 20.1 To perform the Council functions in relation to Revenue and benefits.
- 20.2 To perform the Council functions in relation to Customer Services Contact Centre.
- 20.3 To perform the Council functions in relation to Council Tax and Business Rates.
- 20.4 To perform the Council's Quality & Control functions.

**21. Head of Administrative Services**

- 21.1 To perform the Council's Business Support functions.
- 21.2 To perform the Council's elections, electoral registration and Local Land Charges functions.
- 21.3 To perform the Council's Support Services & Cleaning functions.

**22. Chief Environmental Health Officer**

- 22.1 To perform the Council's functions, with regards to public protection and environmental health under all current and new relevant legislation to include anti-social behaviour, occupational health and safety, control of diseases, control of pollution, air quality, contaminated land, public health, drainage, statutory nuisance, verminous persons and property, animal health and welfare, private sector housing, Sunday trading, food and water supplies, environmental protection, health protection unlawful encampments and smoking and the regulation and deregulation of businesses.
- 22.2 To approve and authorise the payment of housing grants.
- 22.3 To implement property charges on dwellings in respect of aids and adaptations.
- 22.4 To consider, determine and issue all of the Council's applications for approvals, licences, permits and registration for the Directorate, and if applicable vary, refuse,

revoke or suspend such approvals, licences, permits and registration in relation to relevant Council functions and under the relevant current and new legislation including (but not limited to)

- skin piercing and special treatments
- pleasure boats and vessels
- premises for the preparation of food (including the Food Hygiene Rating Scheme)
- animal activities including but not exclusively; dog breeding, pet vending, premises where animals are bred or kept as part of a business, animal boarding, animal trainers and exhibitors, riding establishments, zoos, dangerous wild animals, guard dogs
- house in multiple occupation
- mobile homes
- scrap metal dealers (except for refusals which will go to Committee)
- pollution control
- private water supplies
- health protection Liquor (Licensing Act 2003)
- Gambling (Gambling Act 2005)
- street collections
- house to house collections
- sex shops and cinemas
- massage and special treatment
- vehicles, drivers and operators
- hypnotism
- pavement licences
- Scrap Metal Dealers (Sites and Collectors)

22.5 To perform the role of Hearing Officer on an application to review a decision to issue possession proceedings on the absolute ground.

22.6 To determine and maintain a matrix of competency and scope of enforcement levels of officers within environmental health.

22.7 To administer Simple Cautions in conjunction with an officer from Legal Services.

22.8 To be appointed as an Inspector in pursuance of section 19 of the Health and Safety at Work etc. Act 1974 authorised to carry out the powers vested in Inspectors by sections 20, 21, 22 and 25 of the Act and also the several provisions mentioned in the third column of Schedule 1 to the 1974 Act and any regulations, orders and instruments made hereunder:

- To authorise persons accompanying them on inspections for the purposes of section 20(2)(c)(i) of the Act.
- To request prosecution proceedings under Section 39 of the Health & Safety at Work Etc. Act 1974.

- 22.9 To act as an authorised officer under Food Safety Act 1990.
- 22.10 To perform all the Council's functions with regard to moveable dwellings, caravan sites and unlawful encampments.
- 22.11 To perform the functions of the Council with respect to anti-social behaviour including Community Protection Notices and Fixed Penalties.
- 22.12 To enforce the powers of the Council in relation to smoking, save that the power to instigate legal proceedings is delegated to the Head of Legal Services.
- 22.13 To be authorised to carry out private sector housing functions including caravan sites, waste, filthy and verminous and HIMO's and improvement schemes (excluding Housing Act Notices, Grant Approvals and Licences).
- 22.14 To exercise powers not otherwise provided for by committee under the Licensing Act 2003 and the Gambling Act 2005, including providing for the discharge of the Authority's functions as a responsible authority within the meaning of the Licensing Act 2003 and the Gambling Act 2005.
- 22.15 To issue licences for hackney carriage and private hire vehicles which are outside the current age limits under the Council's Exceptional Condition policy.
- 22.16 To be authorised to carry out enforcement of all of the functions relating to the Licensing activities above (excluding the issue of Licences and Notices).

### **23. CHIEF COMMUNITIES OFFICER**

- 23.1 To perform the Council's functions, with regards to public protection and under all current and new relevant legislation to include anti-social behaviour and smoking.
- 23.2 To perform the Council's functions in the role of Independent Chair on an application to review Multi Agency Action in relation to community trigger applications (Anti-Social Behaviour Crime and Policing Act 2014).
- 23.3 To perform the Council's functions in authorising the issuing of Community Protection Warnings for Anti-Social Behaviour.
- 23.4 To perform the Council's functions with respect to anti-social behaviour including Community Protection Notices and Fixed Penalties.
- 23.5 To perform the Council's functions in enforcement of the powers of the Council in relation to smoking.

- 23.6 To perform the Council's functions in determining applications for Sanctuary Scheme in accordance with the Sanctuary Scheme Policy.
- 23.7 To perform the Council's functions in managing secure systems for Multi-Agency information.
- 23.8 To perform the Council's functions in managing the Local Strategic Partnership and Community Safety Partnership sharing and Key Individuals Network Contact Systems.
- 23.9 To perform the Council's functions in managing the Local Strategic Partnership and Community Safety Partnership.
- 23.10 To perform the Council's functions in managing Partnership finances on behalf of South Notts Community Safety Partnership.
- 23.11 To perform the Council's functions in commissioning Domestic Homicide Reviews.
- 23.12 To perform the Council's functions in managing the Vetting Procedure.
- 23.13 To perform the Council's functions in managing and perform the role of Chair the Anti-Social behaviour and Complex Case Panel.
- 23.14 To perform the Council's functions in determining Safeguarding referrals and referrals into other services or agencies.
- 23.15 To perform the Council's functions in determining applications for sharing personal information without consent in relation to vulnerable people.
- 23.16 To perform the Council's functions in determining referrals for Child Criminal Exploitation, Child Sexual Exploitation, PREVENT, Modern Slavery and Trafficking.
- 23.17 To perform the Council's functions in relation to Section 11 Children Act 2004 and Safeguarding Assurance Returns.

## **24. SEALING**

- 24.1 The common seal of the Council shall be kept in a safe place in the custody of the Legal team.
- 24.2 The common seal of the Council shall only be affixed to a document on the authority of a Proper Officer, as detailed in the Schedule of Proper Officer Functions and Delegations or otherwise on the authority of the Council, or other Officer with delegated authority to commit the Council to enter into an instrument to which the Council's seal should be affixed.

24.3 An entry of every sealing of a document shall be made, and numbered consecutively, in a book kept for that purpose by the Monitoring Officer, and shall identify the persons who shall have attested the seal and the date when the seal was affixed. The seal may be witnessed and attested by any Officer or Member of the Council.

### **Schedule of Proper Officer Functions and Delegations**

The Council has approved the appointment of the following Officers as Proper Officers.

**The Chief Executive** shall act as the Proper Officer in relation to any other enactment where specific arrangements have not been made under the following provisions.

**The Deputy Chief Executive/Section 151 Officer** shall act as the Proper Officer in respect of any other statute where specific arrangements for financial matters have not been made under the following provisions.

**The Monitoring Officer** shall act as the Proper Officer in respect of any other statute where specific arrangements for legal matters have not been made under the following provisions.

Proper Officer functions may be discharged by their Deputies or any other Officers duly authorised to act in the name of the Proper Officer concerned.

If the Officer to whom a function has been delegated is unable to act due to a conflict of interest or any other reason, then it is for the Chief Executive to determine who should exercise that function. If the Chief Executive is unable to act due to a conflict of interest, or any other reason, then it is for the Deputy Chief Executive/Section 151 Officer to determine who should exercise that function. If both the Chief Executive and Section 151 Officer is unable to act then the powers shall be exercisable by any other Chief Officer of the Council's General Management Team.

<b>STATUTE OR REGULATION</b>	<b>ACTION</b>	<b>PROPER OFFICER</b>	<b>SUBSTITUTE PROPER OFFICER</b>
<b>PUBLIC HEALTH ACT 1936</b>			
S.79	Power to require removal of noxious matter	Chief Executive	Chief Environmental Officer
S.84	Certificate relating to cleansing or destruction of filthy or verminous items	Chief Executive	Chief Environmental Officer
S.85(2)	Cleansing of verminous persons or articles	Chief Executive	Chief Environmental Health Officer

STATUTE OR REGULATION	ACTION	PROPER OFFICER	SUBSTITUTE PROPER OFFICER
<b>LOCAL GOVERNMENT ACT 1972</b>			
S.83 (1) to (4)	Witness and receipt of Declaration of Acceptance of Office	Monitoring Officer	Chief Executive
S.84	Receipt of notice of resignation of Elected Member	Chief Executive	Deputy Chief Executive/Section 151 OFFICER
S.88(2)	Arranging a Council meeting to appoint to Chair of the Council	Chief Executive	Monitoring Officer
S.89(1)	Notice of casual vacancy	Chief Executive	Monitoring Officer
S.100B(2)	The Officer also may exclude from agendas any information which is likely to be dealt with in the absence of press and public	Monitoring Officer	Head of Governance
S.100B(7)	Disclosure to newspapers of a copy of the agenda and/or any further copies of documents in connection with the item.	Monitoring Officer	Head of Governance
S.100C(2)	Where parts of the published minutes have not been disclosed due to exempt information and the document does not provide members of the public with a reasonably fair and coherent record than the proper officer shall prepare a written summary of the proceedings at Cabinet/Committees and Sub-Committees	Monitoring Officer	Head of Governance

<b>STATUTE OR REGULATION</b>	<b>ACTION</b>	<b>PROPER OFFICER</b>	<b>SUBSTITUTE PROPER OFFICER</b>
S.100D(1) and (5)	The Officer responsible for identifying and compiling lists of background papers	Officer supporting the portfolio holder to compile the report.	The Director of the service compiling the report.
S.100F(2)	The Officer making decisions as to documents disclosing exempt information which are not required to be open to inspection by Council Members	Chief Executive	Monitoring Officer
S.115(2)	Receipt of money due from Officers	Deputy Chief Executive/Section 151 Officer	Head of Finance Services
S.137 and 137A	Receipt of statement provided in relation to financial assistance	Deputy Chief Executive/Section 151 Officer	Head of Finance Services
S.146(1) (a) and (b)	Declarations and certificates with regard to transfer of securities	Deputy Chief Executive/Section 151 Officer	Head of Finance Services
S.151 (and S.114 Local Government Finance Act 1988)	The Officer responsible for the proper administration of the Council's financial affairs	Deputy Chief Executive/Section 151 Officer	Head of Finance Services
S.191	Officer to whom an application under S.1 of the Ordnance Survey Act 1841 will be sent	Head of Legal Services	Head of Planning and Economic Development
S.210	Charity functions of predecessor authorities transferred to the Council	Chief Executive	Monitoring Officer
S.225	Deposit of documents	Chief Executive	Head of Legal Services



<b>STATUTE OR REGULATION</b>	<b>ACTION</b>	<b>PROPER OFFICER</b>	<b>SUBSTITUTE PROPER OFFICER</b>
S.228(3)	Accounts for inspection by any Member of the Council	Deputy Chief Executive/Section 151 Officer	Chief Executive
S.229(5)	Certification of photographic copies of documents	Monitoring Officer	Head of Legal Services
S.234	Officer who may authenticate documents	Monitoring Officer	Head of Legal Services
S.236(9) and (10)	Sending of copies of byelaws to Parish Councils, Parish meetings and County Council	Monitoring Officer	Head of Legal Services
S.238	Certification of byelaws	Monitoring Officer	Head of Legal Services
S.248	Officer who will keep the Roll of Freemen	Chief Executive	Monitoring Officer
Para 4(2)(b) of Schedule 12	Signing of summons to Council meeting	Chief Executive	Monitoring Officer
Para 25 of Schedule 14	Certification of resolution passed under this paragraph	Monitoring Officer	Chief Executive
Schedule 29	To undertake those duties which arise at District and Parish Council elections which, under the Representation of the People Acts, are required to be undertaken not by the Returning Officer but by the Proper Officer.	Chief Executive	Head of Administrative Services
<b>LOCAL GOVERNMENT ACT 1974</b>			
S.30(5)	To give notice that copies of an Ombudsman's report are available	Monitoring Officer	Chief Executive
<b>LOCAL LAND CHARGES ACT 1975</b>			
	Local Land Charges Registrar under the Land Charges Rules	Chief Executive	Head of Legal Services

STATUTE OR REGULATION	ACTION	PROPER OFFICER	SUBSTITUTE PROPER OFFICER
<b>LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</b>			
S.41(1)	The Officer who will certify copies of evidence of resolutions and minutes of proceedings	Monitoring Officer	Chief Executive
<b>REPRESENTATION OF THE PEOPLE ACT 1983</b>			
S.8	Electoral Registration Officer	Chief Executive	Head of Administrative Services
S.35	Returning Officer for local elections	Chief Executive	Head of Administrative Services
S.52(2)	Deputy Electoral Registration Officer	Head of Administrative Services	Chief Executive
S.67	Acting as the appropriate person for the purposes of Part II	Chief Executive	Head of Administrative Services
S.128	Publishing a petition questioning a local election	Chief Executive	Head of Administrative Services
S.131	Providing suitable accommodation for election court	Chief Executive	Head of Administrative Services
S.145	Receipt of High Court Certificate at the conclusion of trial of local election petition	Chief Executive	Head of Administrative Services
S.200	Posting notices required in relation to local elections	Chief Executive	Head of Administrative Services
Paragraphs 3, 6 and 8 of Schedule 4	Receipt of an election expense declarations and returns and the holding of those documents for public inspection	Chief Executive	Head of Administrative Services
<b>PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984</b>			
S.48	To issue certificates relative to the removal of bodies to mortuaries or for immediate burial	All Consultants from Public Health England (East Midlands)	Chief Executive

<b>STATUTE OR REGULATION</b>	<b>ACTION</b>	<b>PROPER OFFICER</b>	<b>SUBSTITUTE PROPER OFFICER</b>
S.60	Service of notices and other documents	Chief Executive	Chief Environmental Health Officer
s.61	Powers to enter premises	Chief Executive	Chief Environmental Health Officer
<b>BUILDING ACT 1984</b>			
S.35A	Certifying evidence is sufficient to justify commencing proceedings for contravention of building regulations	Chief Executive	Head of Legal Services
S.61	Access to work to repair drain	Chief Executive	Head of Legal Services/Chief Environmental Health Officer
S.78	Taking immediate action in relation to dangerous building	Chief Executive	Head of Legal Services/Chief Environmental Health Officer
S.93	Authentication of documents	Chief Executive	Head of Legal Services
<b>NOTTINGHAMSHIRE COUNTY COUNCIL ACT 1985</b>			
Part II	Public Health	Chief Executive	Chief Environmental Health Officer
Part III	Public Order & Safety	Chief Executive	Chief Environmental Health Officer
Part IV	Establishments for massages or special treatment	Chief Executive	Chief Environmental Health Officer
<b>LOCAL GOVERNMENT FINANCE ACT 1988</b>			
S114A, 115	Responsibility for Chief Financial Officer Reports.	Section 151 Officer	Chief Executive
S. 116	Notify auditor of meeting to consider financial report to the authority and decision at that meeting	Section 151 Officer	Chief Executive
<b>LOCAL GOVERNMENT AND HOUSING ACT 1989</b>			

<b>STATUTE OR REGULATION</b>	<b>ACTION</b>	<b>PROPER OFFICER</b>	<b>SUBSTITUTE PROPER OFFICER</b>
S.2(4)	Recipient of the list of politically restricted posts	Monitoring Officer	Chief Executive
S.4	Designation and reports of head of paid service	Deputy Chief Executive/S151 Officer	Chief Executive
S.5 (as amended by para 24 of schedule 5 of the Local Government Act 2000)	Designation and reports of Monitoring Officer	Monitoring Officer	Chief Executive
S.15,16	To undertake all matters relating to the formal establishment of political groups within the membership of the Council	Chief Executive	Deputy Chief Executive/Section 151 Officer
<b>LOCAL GOVERNMENT (COMMITTEES AND POLITICAL GROUPS) REGULATIONS 1990 NO. 1553</b>			
	For the purposes of the composition of Committees and nominations to political groups	Monitoring Officer	Chief Executive
<b>FOOD SAFETY ACT 1990</b>			
s.5(6)	Authorised Officer for the purposes of the Council's functions	Chief Executive	Environmental Health Officers and Environmental Health Technical Officers
<b>ENVIRONMENTAL PROTECTION ACT 1990</b>			
S.149	Relating to stray dogs	Executive Director	Head of Environment
Part III	Relating to statutory nuisances	Chief Executive	Chief Environmental Health Officer
<b>DATA PROTECTION ACT 1998</b>			
	Data Protection Officer/Senior Information Risk Owner	Executive Director	Chief Executive
<b>FREEDOM OF INFORMATION ACT 2000</b>			
s.36 (2) and (5)	The qualified person for the purposes of deciding whether information is exempt from	Monitoring Officer	Chief Executive

<b>STATUTE OR REGULATION</b>	<b>ACTION</b>	<b>PROPER OFFICER</b>	<b>SUBSTITUTE PROPER OFFICER</b>
	disclosure to the public relating to the prejudice to the conduct of public affairs		
S.36	Determination of all exemptions apart from those relating to the prejudice to the conduct of public affairs	Monitoring Officer	Chief Executive
<b>LOCAL GOVERNMENT ACT 2000</b>			
S.52	Undertakings by Members and co-opted Members to observe the Council's Code of Conduct	Monitoring Officer	Chief Executive
<b>REGULATION OF INVESTIGATORY POWERS ACT 2000</b>			
	Authorising Officer and Designated Person for the use of surveillance and the acquisition and disclosure of communications data	Deputy Chief Executive/Section 151 Officer , Head of Legal Services, Head of Housing, Head of Revs and Bens.	Chief Executive
<b>LOCAL AUTHORITIES (REFERENDUMS) (PETITIONS AND DIRECTIONS) (ENGLAND) REGULATIONS 2011 NO. 2914</b>			
Regulation 4	Publish the number that is equal to 5 per cent of the number of local government electors for the authority's area	Chief Executive	Head of Administrative Services
Regulation 7	Post announcement and post directions – petitions	Chief Executive	Head of Administrative Services
Regulation 8	Amalgamation of petitions	Chief Executive	Head of Administrative Services
Regulation 11	Procedure on receipt of petition	Chief Executive	Head of Administrative Services
Regulation 13	Publicity for valid petitions	Chief Executive	Head of Administrative Services
Regulation 14	Publicity for invalid petitions	Chief Executive	Head of Administrative Services
Regulation 19	Action following direction	Chief Executive	Head of Administrative Services

STATUTE OR REGULATION	ACTION	PROPER OFFICER	SUBSTITUTE PROPER OFFICER
<b>THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) ACCESS TO INFORMATION (ENGLAND) REGULATIONS 2012 NO.2089</b>			
Regulation 12	Recording of Executive decisions made at meetings	Monitoring Officer	Head of Governance
Regulation 13	Recording of Executive decisions made by individual Members	Monitoring Officer	Head of Governance
Regulation 14	Making documents available for inspection following Executive decisions	Monitoring Officer	Head of Governance
Regulation 5	Compiling list of background papers for inspection	Monitoring Officer	Head of Governance
Regulation 15	Making report and background papers relating to key decision available for inspection	Monitoring Officer	Head of Governance
Regulation 7	Access to agenda and connected reports	Monitoring Officer	Head of Governance
Regulation 9	Publicity in connection with key decisions	Monitoring Officer	Head of Governance
Regulation 10	General exception	Monitoring Officer	Head of Governance
Regulation 16	Members' rights of access to documents	Monitoring Officer	Head of Governance
Regulation 20	Confidential/exempt information and exclusion of public from meetings	Monitoring Officer	Head of Governance
<b>LOCAL AUTHORITIES (MEMBERS' ALLOWANCES) (ENGLAND) REGULATIONS 2003</b>			
Regulation 13	Receipt of notice in writing that a Councillor wishes to forgo any part of his entitlement to an allowance	Chief Executive	Deputy Chief Executive/Section 151 Officer
<b>HOUSING ACT 2004</b>			
Section 4	Where an official complaint about the condition of any residential premises in the district of a local housing	Chief Executive	Chief Environmental Health Officer

STATUTE OR REGULATION	ACTION	PROPER OFFICER	SUBSTITUTE PROPER OFFICER
	<p>authority is made to the proper Officer of the authority, and the circumstances complained of indicate –</p> <p>a) That any category 1 or category 2 hazard may exist on those premises, or</p> <p>b) That an area in the district should be dealt with as a clearance area, the proper Officer must inspect the premises or area.</p>		
<b>LOCAL ELECTIONS (PARISHES AND COMMUNITIES) (ENGLAND AND WALES) RULES 2006 NO. 3305</b>			
Rule 5	Receipt of request to fill a casual vacancy in the office of a Parish or Community Councillor	Chief Executive	Head of Administrative Services
Paragraph 50 of Schedule 2	Receipt of declaration of result in Parish or Community election	Chief Executive	Head of Administrative Services
<b>THE LOCAL AUTHORITIES (MAYORAL ELECTIONS) (ENGLAND AND WALES) REGULATIONS 2007 NO.1024</b>			
Paragraph 54 of Schedule 1	Receive declaration of result	Chief Executive	Head of Administrative Services
<b>LOCAL AUTHORITIES (CONDUCT OF REFERENDUMS) (ENGLAND) REGULATIONS 2012 NO 323</b>			
Regulation 4	Publicity in connection with referendums	Chief Executive	Head of Administrative Services
Paragraphs 41 and 43 of Schedule 5	Receive declaration of result	Chief Executive	Head of Administrative Services

### Authentication of Documents

Any notice, order or other document which the Council are authorised or required by or under any enactment (including the Local Government Act 1972) to give, make or issue shall be signed or sealed on behalf of the Council by the proper Officer of the Council as defined below.

<b>Proper Officer</b>	<b>Substitute</b>	<b>Purpose</b>
Chief Executive	Appropriate Member of GMT	In accordance with their functions highlighted in the Constitution and the Proper Officer functions
Deputy Chief Executive/Section 151 Officer	Head of Finance Services	In accordance with their functions highlighted in the Constitution and the Proper Officer functions
Monitoring Officer	Head of Planning & Economic Development Head of Administrative Services Head of Legal Services & Deputy Monitoring Officer	In accordance with their functions highlighted in the Constitution and the Proper Officer functions
Head of Legal Services	Chief Executive	In accordance with their functions highlighted in the Constitution and the Proper Officer functions
Chief Environmental Health Officer	Chief Executive	In accordance with their functions highlighted in the Constitution and the Proper Officer functions
Head of Asset Management	Chief Executive	In accordance with their functions highlighted in the Constitution and the Proper Officer functions



Head of Planning and Economic Development	Chief Executive	In accordance with their functions highlighted in the Constitution and the Proper Officer functions
Head of Housing	Chief Executive	In accordance with their functions highlighted in the Constitution and the Proper Officer functions

# **Broxtowe Borough Council Constitution**

## **Chapter 4 – Part 1**

### **Financial Regulations**

**Chapter 4 Part 1: Financial Regulations**

**Broxtowe Borough Council**

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## **BROXTOWE BOROUGH COUNCIL**

### **FINANCIAL REGULATIONS**

#### **1. GENERAL**

- 1.1 This Code of Financial Regulations is designed to assist the Council to regulate and control the finances of all directorates of the Council.
- 1.2 Section 151 of the Local Government Act 1972 requires that "every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their Officers has responsibility for the administration of those affairs". In Broxtowe Borough Council the Deputy Chief Executive is the Officer so responsible.
- 1.3 As such, the Deputy Chief Executive will exercise control over accounting arrangements and obtain uniformity therein throughout all directorates of the Council.
- 1.4 Each Chief Officer shall consult the Deputy Chief Executive regarding any matter within their purview which is liable materially to affect the finances of the Council, before any provisional or other commitment is incurred or before reporting thereon to the Cabinet. All Officers have responsibility for financial matters within their purview. Chief Officers are responsible for developing estimates and the Deputy Chief Executive is responsible for ensuring that they are robust and that there are sufficient reserves to deal with any unforeseen circumstances.
- 1.5 In these Financial Regulations a reference to an Act of Parliament or Statutory Instrument includes a reference to any amendment or replacement to that Act or Instrument, or any consolidating re-enactment of it.
- 1.6 Any reference in these Financial Regulations to a named Officer shall be deemed to include:
  - (i) a reference to any Officer who may at any time succeed to or carry out the functions of that named Officer (whether as a result of departmental reorganisation, change of post title or otherwise)
  - (ii) a reference to any Officer who is duly authorised by the named Officer to perform the relevant functions.
- 1.7 Throughout these Financial Regulations, the masculine gender shall include the feminine gender and vice-versa. References to Chief Officer include the Chief Executive and Deputy Chief Executive when he or she is operating in the capacity of a Chief Officer.

## 2. **BUDGET**

- 2.1 The detailed form of capital and revenue estimates shall be determined by the Deputy Chief Executive in a manner consistent with the general directions of Cabinet for further consideration by full Council.
- 2.2 Estimates of income and expenditure on revenue and capital accounts shall jointly be prepared by Chief Officers and the Deputy Chief Executive.
- 2.3 Upon the approval by the Council of the revenue budget and programme of capital expenditure, the Chief Officer concerned shall be authorised to take steps to ensure that the budget and the programme, as amended from time to time, are implemented, with the exception of asterisked items, which require the prior approval of Cabinet, and provided that the expenditure on both capital and revenue account does not exceed the approved estimate.
- 2.4 Any proposal to Cabinet which would involve the incurring of expenditure shall be accompanied by a report of the Chief Officer concerned, indicating the sufficiency or otherwise of the relevant financial provision in the budget and/or capital programme.
- 2.5 A medium term financial strategy, providing a forward assessment of the commitments of the Council, shall be produced as deemed necessary by the Deputy Chief Executive.
- 2.6 Where it appears that the amount of any head of estimate of approved expenditure may be exceeded or the amount of any head of approved income may not be reached, it shall be the duty of the Chief Officer concerned, after consultation with the Deputy Chief Executive, to inform Cabinet unless the additional cost can be contained within overall expenditure totals and met by approved virement within the limits specified below.
- 2.7 Variation of Estimates – Revenue Expenditure Virement.
  - 2.7.1 The object should be to avoid the transfer of estimates and this is best achieved by sound and detailed estimating together with the accurate coding of expenditure during the year in accordance with the provisions made. Where it is desired to transfer funds between expenditure budgets, the following procedure shall be adopted and the Deputy Chief Executive consulted in every case, to effect the necessary amendments to the approved budgets:
    - (i) Between detail budget codes within a particular cost centre – authorised by the relevant Head of Service and actioned by Finance Services.
    - (ii) Between cost centres within a particular department/service area up to a cumulative limit of £25,000 within each financial year. Over this, prior Portfolio Holder approval is required for amounts up to £50,000 and for amounts above this limit the approval of Cabinet is required – authorised by the relevant Head of Service and actioned by Finance Services.
    - (iii) Between corporate priority areas is subject to the appropriate authorisation of the Deputy Chief Executive, Chief Executive and the approval of Cabinet.
  - 2.7.2 No virement shall be undertaken with the purpose of utilising additional income for expenditure purposes without the express consent of the Deputy Chief Executive. No virement shall be undertaken out of savings on payroll budgets without the express consent of the Deputy Chief Executive.

- 2.7.3 Virement between capital budgets, including virement between revenue and capital budgets is not allowed.
- 2.7.4 There shall be no carry forward of any underspending on budgets into the following financial year without the express authorisation of the Deputy Chief Executive. When considering any applications for carry forwards, the Deputy Chief Executive shall consider the overall budget position of the Council.
- 2.7.5 The Deputy Chief Executive is authorised to introduce additional restrictions on virement.

### 3. **ACCOUNTING ARRANGEMENTS**

- 3.1 The Deputy Chief Executive shall be responsible for the financial organisation and accounting necessary to ensure the proper recording of all sums due from and accruing to the Council and for overseeing arrangements for the collection, custody, control, accounting and disposal of all cash. The Deputy Chief Executive shall advise on proper accounting systems for the control of all assets (including stores) and, in liaison with other Chief Officers, ensure that proper standards of financial administration are maintained throughout the Council's organisation.
- 3.2 The Chief Officer of the directorate concerned shall consult the Deputy Chief Executive as to the form and manner of undertaking financial transactions and keeping financial records, statements and accounts. No change shall be made to any such system or matter without the Deputy Chief Executive's prior approval.
- 3.3 Financial records shall not be disposed of other than in accordance with the arrangements approved by the Deputy Chief Executive.
- 3.4 The following principles shall be observed in the allocation of accounting responsibilities:
- a) the duties of providing information regarding amounts due to or from the Council and of calculating, checking and recording these amounts shall be separated as completely as possible from the duties of collecting or disbursing them.
  - b) Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of those transactions.
- 3.5 A Chief Officer shall be able to transfer, subject to the Deputy Chief Executive's prior approval, individual capital or revenue estimates within the limits specified in these Financial Regulations. Such revenue transfers shall be limited to estimates other than for recharges, capital charges, and estimates provided for specific items of expenditure.
- 3.6 The Deputy Chief Executive shall be kept informed by the appropriate Chief Officer of any change in charges or in fees determined by legislation and shall be consulted in relation to any other proposal to introduce new or amend existing charges for work done, services rendered, goods supplied, fees, tolls, scales of rent or similar income and any scale for the remission of sums due to the Council either wholly or in part. The appropriate Chief Officer, in consultation with the Deputy Chief Executive, shall review existing charges etc. at least annually and shall report upon the results of such a review to Cabinet.

- 3.7 Chief Officers shall furnish the Deputy Chief Executive with such information as they may reasonably require from time to time in connection with the financial administration of the Council.
- 3.8 The Deputy Chief Executive shall produce, for the guidance of Officers responsible for incurring expenditure, such financial information as may be necessary for the efficient conduct of their functions.
- 3.9 The Deputy Chief Executive shall prepare a statement of all accounts of the Council after the close of each financial year. They shall prepare or liaise with the directorates concerned and with partner organisations in the preparation of financial returns required by government departments or other agencies.
- 3.10 Where an employee of the Council operates on behalf of the Council and/or Mayor an unofficial fund or funds as part of their duties or in connection with their duties, Chief Officers shall ensure that Proper Officers are appointed to administer the fund and that the fund is audited by persons having knowledge of the purpose of the fund. Any proposed unofficial funds shall have the prior approval of Chief Officers who shall maintain a record of all such funds and receive the audited accounts thereof. Such accounts shall be prepared annually or at the completion of the purpose for which the fund was set up, whichever is the earlier. The Deputy Chief Executive shall have access to any records relating to such funds.

#### 4. **AUDITS**

- 4.1 The Deputy Chief Executive shall ensure that an adequate and effective audit is undertaken of the Council's accounting records and of its system of internal control in accordance with the Accounts and Audit Regulations 2015.
- 4.2 The role of Internal Audit is defined within the Internal Audit Charter, as agreed periodically by the Governance, Audit and Standards Committee, and is delivered in accordance with the latest Public Sector Internal Audit Standards and other associated guidance.
- 4.3 Internal Audit has been established to provide independent, objective assurance to the Council on its operations and to add value, by assisting management to improve the delivery of the Council's objectives and operations through evaluating and challenging the effectiveness of risk management, control and governance processes.
- 4.4 It is the responsibility of Internal Audit to review, appraise and report upon:
- a) the soundness, adequacy and application of governance, financial and other management controls and risk management arrangements;
  - b) the extent of compliance with, relevance and financial effect of, established policies, plans and procedures;
  - c) the extent to which the Council's assets and interests are accounted for and safeguarded from losses of all kinds arising from:
    - (i) fraud and other offences,
    - (ii) waste, extravagance and inefficient administration, poor value for money or other cause;

- d) the suitability and reliability of financial and other management data developed within the Council;
  - e) the implications on financial procedures and controls arising from service reviews.
- 4.3 The Deputy Chief Executive or their authorised representative, if required to do so for the purposes of the internal audit, shall have authority to:
- a) enter at all reasonable times on any Council premises or land;
  - b) call for the production of all records, documents (including information recorded in an electronic form), cash, stores, correspondence or other Council property in the custody or under the control of any employee of the Council as are considered necessary by those conducting the internal audit;
  - c) require and receive such explanations as are necessary concerning any matter under examination.
- 4.4 The Deputy Chief Executive shall be notified forthwith, by the Chief Officer of the department concerned, of any circumstances which suggest the possibility of irregularity affecting cash, stores or other property of the Council. Any irregularity shall be investigated and reported upon by the Chief Audit and Control Officer to the Deputy Chief Executive who shall, where appropriate, inform the Chief Officer of the circumstances concerned. If fraud or serious irregularity is disclosed the matter shall be reported to the Chief Executive.
- 4.5 The Deputy Chief Executive shall submit accounts and documents to the Council's external auditors and give any explanation required by them in the performance of their duties.

## 5. **INCOME**

- 5.1 The collection of all money due to the Council shall be under the control and supervision of the Deputy Chief Executive. It is the responsibility of departments to ensure that sundry debtor invoices are raised where appropriate in respect of debts to the Council.
- 5.2 All receipt forms, tickets, books and other documents of a similar nature shall be ordered under the direction of the Deputy Chief Executive, who shall satisfy himself as to the arrangements for their control and issue. No receipts shall be given except on an authorised form.
- 5.3 All monies received by an Officer on behalf of the Council shall be properly safeguarded and without delay paid to the Deputy Chief Executive or as they may direct to the Council's bank account. No deduction may be made from such money save to the extent that the Deputy Chief Executive may specifically authorise. Any refunds of overpayments must be made through the payments system and not out of income. Each Officer who so banks money shall enter on the paying-in slip a reference to the related debt (such as the receipt number or the name of the debtor) or otherwise indicate the origin of the money.
- 5.4 All cheques shall be crossed specifically to the account of the Council when received.
- 5.5 Personal cheques shall not be cashed out of money held on behalf of the Council.



- 5.6 The Deputy Chief Executive shall be notified promptly of all money due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council. They shall have the right to inspect any document or other evidence in this connection, as he may decide.
- 5.7 Each Chief Officer shall furnish the Deputy Chief Executive with such particulars in connection with work done, goods supplied or services rendered and of all other amounts due, as may be required by them to record correctly all sums due to the Council and to ensure the prompt rendering of accounts for the recovery of such sums.
- 5.8 Every transfer of official money from one Officer to another will be evidenced in the records of the department concerned by the signature of the receiving Officer unless instructions to the contrary are issued by the Deputy Chief Executive.
- 5.9 The Deputy Chief Executive, after consultation with the Head of Legal Services and Deputy Monitoring Officer, shall recommend to Cabinet to write off amounts deemed to be irrecoverable, subject to individual amounts of £1,200 or less, and debts claimed and admitted under the provisions of the Insolvency Act 1985, being written off at their discretion.
- 5.10 The Deputy Chief Executive will provide departments with an aged profile of outstanding debt on a monthly basis. Departments will be required to analyse this information and ensure that appropriate further action is taken where necessary.
- 5.11 The Deputy Chief Executive, in consultation with the appropriate Chief Officer, shall submit periodical reports to the relevant Committee on the collection of income and the level of arrears.

## **6. BANKING ARRANGEMENTS**

- 6.1 All arrangements with the Council's bankers concerning the Council's banking arrangements and the issue of cheques shall be made by or under arrangements approved by the Deputy Chief Executive. The Deputy Chief Executive shall be authorised to operate such subsidiary banking accounts as they may consider necessary.
- 6.2 All cheques shall be ordered only on the authority of the Deputy Chief Executive who shall make proper arrangements for their safe custody.
- 6.3 a) Payments drawn on banking accounts of the Council shall bear the signature of the Deputy Chief Executive.
- b) Payments by cheque for amounts of £5,000 or above shall include a second signature of an authorised Officer in addition to that of the Deputy Chief Executive.
- 6.4 Overdrafts shall not be permitted on subsidiary bank accounts.
- 6.5 Banking accounts shall be reconciled with cash books at least once in each month.

## **7. TREASURY MANAGEMENT**

- 7.1 All money in the hands of the Council shall be aggregated for the purposes of treasury management and shall be under the control of the Deputy Chief Executive.

- 7.2 All Executive decisions on borrowing, investment or financing shall be delegated to the Deputy Chief Executive or through them to their staff, who shall all be required to act in accordance with the CIPFA Code for Treasury Management in the Public Services, the Council's Treasury Policy Statement, and Treasury Management Strategy Statement and the Council's authorised borrowing limit.
- 7.3 The Deputy Chief Executive shall be the Council's Registrar of Stocks, Bonds and Mortgages and shall maintain records of all borrowing of money by the Council.
- 7.4 Within the approved Capital Programme, where finance is to be provided by way of lease, the Deputy Chief Executive shall have authority to arrange such leases.
- 7.5 The Deputy Chief Executive may make arrangements for the issue of negotiable securities only within the limits authorised from time to time by resolution of the Council.
- 7.6 All borrowings and investments shall be effected in the name of the Council.
- 7.7 The Deputy Chief Executive shall be responsible for the safe custody of all securities.
- 7.8 The Deputy Chief Executive shall periodically report to the Governance, Audit and Standards Committee on the activities of the treasury management operation and on the exercise of treasury management powers delegated to them. Such reports shall include a mid-year review of each year in question and an annual report on treasury management for presentation by 31 July of the succeeding financial year.

## **8. IMPREST ACCOUNTS**

- 8.1 The Deputy Chief Executive shall make such advances as they consider appropriate for the purpose of defraying petty cash and other expenses. Such accounts shall be maintained on the imprest system. A receipt shall be signed in respect of each advance by the Officer concerned who shall be responsible to account therefrom.
- 8.2 No income received on behalf of the Council may be paid into an imprest account. All such income must be paid to the Deputy Chief Executive or direct to the Council's banking account, as provided elsewhere in these Financial Regulations. No cheques are to be cashed from cash imprest accounts.
- 8.3 Vouchers for petty cash disbursements shall be obtained wherever possible and all vouchers shall be carefully preserved and forwarded to the Deputy Chief Executive with a claim for reimbursement at such period as shall be arranged with them.
- 8.4 Payment out of petty cash advances shall be limited to minor items of expenditure only and to such other items as the Deputy Chief Executive may approve. In no case shall the amount of any individual payment exceed £50 except by special arrangement with the Deputy Chief Executive.
- 8.5 All petty cash accounts shall be certified as correct by the Chief Officer concerned or other responsible person expressly authorised by them. When required by the Deputy Chief Executive, an Officer holding an imprest account shall certify the state of the account.
- 8.6 Chief Officers shall be responsible for ensuring that all cash balances are kept in a safe place and secure from unauthorised interference.

- 8.7 On leaving the employment of the Council or otherwise ceasing to hold an imprest balance, an Officer shall account to the Deputy Chief Executive for the amount advanced to them.

9. **ORDERS FOR GOODS, SERVICES AND MINOR WORKS**

- 9.1 The custody and issue of all electronic and paper based orders shall be maintained within the computerised financial management system under the direction of the Deputy Chief Executive.
- 9.2 The appropriate Chief Officer shall be responsible for all orders issued from their directorate. A list of all persons authorised to sign orders electronically or in writing shall be maintained by the Deputy Chief Executive and agreed with the relevant Chief Officers. No Officer shall authorise an order using any name or computerised registration other than their own. The authorising of the order shall indicate the following:
- a) that the goods or services are necessary for the discharge of responsibilities of the Council or to carry out functions approved by the Council under Section 137 of the Local Government Act 1972;
  - b) that there is provision for the cost within the approved annual estimates, supplementary estimate or special financial provision;
  - c) that Financial Regulations and Procedure Rules have been complied with.
- 9.3 Official electronic and paper-based orders shall be in a form agreed by the Deputy Chief Executive and, where possible, shall indicate clearly the nature and/or quantity of work, goods or services required and any contract or agreed prices relating thereto. Electronically produced orders will be serially numbered and will be stored within the computerised financial management system. Paper-based order books will only be utilised where access to the electronic based ordering system is not available.
- 9.4 All orders should specify that goods supplied must be accompanied by a delivery note and that invoices must be sent to the directorate or establishment issuing the orders as soon as possible after the despatch of the goods.
- 9.5 Orders on official pre-determined forms shall be issued for all works, goods and services to be supplied to the Council. Orders are not required for rents, rates or supplies of public utility services, nor for small cash purchases properly paid for out of petty cash imprest accounts. Other exceptions must be agreed by the Chief Officer concerned with the Deputy Chief Executive.
- 9.6 Verbal orders shall be kept to a minimum and given only in cases of urgency, by an Officer authorised to sign the relevant order. They shall be confirmed either the same or next working day by electronic or written orders which shall be marked accordingly.
- 9.7 Each order shall conform with the directions of the Council with respect to central purchasing, the standardisation of supplies and materials and the Council's Procurement and Commissioning Strategy.
- 9.8 An exception exists to paragraph 9.4, 9.5 and 9.6 where corporate purchasing cards are used. This is dealt with in section 11 below.

10. **PAYMENT OF ACCOUNTS**

- 10.1 The payment of all accounts due from the Council shall be made by the Deputy Chief Executive, with the exception of payments made using corporate purchasing cards or from imprest or petty cash accounts. Payments shall be made by cheque or other instrument drawn on the Council's banking account.
- 10.2 Each Chief Officer shall arrange for invoices to be sent to the directorate or establishment issuing the orders, in accordance with directions to be specified on the orders and the supplier shall be asked to quote the name of the department, the number of the order and the place where the work was done or goods delivered.
- 10.3 Chief Officers are responsible for ensuring that all invoices are scanned and images made available within the financial management system.
- 10.4 Invoices shall not be made out by Officers of the Council except in any cases or category of cases agreed by the Deputy Chief Executive, nor shall any Officer add any item to an invoice tendered by a supplier. Any amendment to an account shall be made in ink on the invoice and initialled by the Officer making it, briefly stating the reasons where they are not self-evident. The invoice should then be re-scanned and indexed if necessary to show any amendment made.
- 10.5 The certification of accounts for payment shall be by the Chief Officer concerned or by an Officer authorised by them. A list of the Officers authorised to certify accounts shall be maintained by the Deputy Chief Executive and agreed with the relevant Chief Officer.
- 10.6 The Chief Officer issuing an order shall be responsible for the examination, verification, processing and certification of the relevant invoice(s) and, similarly, for any other payment vouchers or accounts arising from sources in their directorate. The processing and certification of any invoice by or on behalf of a Chief Officer shall mean:
- a) that the goods have been received, examined and approved as to quality and quantity, or that service rendered or work done has been performed satisfactorily;
  - b) that, where appropriate, the goods or services conform with the order;
  - c) that the price is in accordance with the quotation, contract or current market rate, whichever is applicable, or is otherwise reasonable;
  - d) that all trade and cash discounts, other proper allowances and credits due and Value Added Tax are correct;
  - e) that the expenditure has been properly incurred, was duly authorised, is within the relevant estimate provision and that the allocations are correct;
  - f) that the account is arithmetically correct;
  - g) that the account has not previously been passed for payment and is a proper liability of the Council;
  - h) that appropriate entries have been made in inventories, goods received and/or stores records which are required to be kept;
  - i) that the account has been correctly entered into the computerised purchasing/payments system.

- 10.7 The invoice submitted for payment should be cross referenced to any official order numbers.
- 10.8 The duties of completing and authorising orders shall not be performed by the same Officer, subject to the Deputy Chief Executive being informed where such separation of duties is in any individual instance impracticable.
- 10.9 All copy invoices or statements processed for payment must be certified to show that payment has not previously been made for the goods or services in question and that appropriate checks have been made to this effect, except where firms normally submit copy invoices and the directorate has notified the Deputy Chief Executive accordingly. This certification should be entered onto the copy invoice or statement as appropriate and the document should be re-scanned or indexed if necessary to show this certification.
- 10.10 Duly checked and authorised accounts shall be processed for payment without delay. The Deputy Chief Executive shall examine them to the extent that they consider necessary, for which purpose he shall be entitled to make such enquiries and to receive such information and explanations as he may require.
- 10.11 Subject to the foregoing Financial Regulations being complied with, the Deputy Chief Executive shall, within a reasonable period, pay all accounts passed to them for payment and shall ensure the prompt payment of such of those accounts as are of an urgent nature.
- 10.12 Each Chief Officer shall, as soon as possible after 31 March in each year, and in any case not later than a date to be specified by the Deputy Chief Executive, submit to the Deputy Chief Executive schedules of all outstanding revenue and capital accounts relating to the previous financial year and, when such accounts are subsequently processed for payment, they shall be identified accordingly.

11. **USE OF CORPORATE PURCHASING CARDS**

- 11.1 Where purchases are made using a corporate purchasing card, orders will not be required but details should be maintained of all purchases made in accordance with procedures laid down by the Deputy Chief Executive.
- 11.2 Corporate purchasing cards should only be used for Council purchases, unless in exceptional circumstances and with the prior agreement of the Deputy Chief Executive. Usage should be in accordance with the conditions of use as laid down by the Deputy Chief Executive.
- 11.3 Limits exist as to individual transactions and cumulative credit allowed on each card. Authorised users should ensure that such limits are not exceeded. Where limits are exceeded unintentionally, then the Deputy Chief Executive should immediately be informed.
- 11.4 Corporate purchasing cards are the personal responsibility of those users to whom they are issued. Such authorised users should not pass their card or card details to other individuals to use it on their behalf without the prior approval of the Deputy Chief Executive.
- 11.5 All endeavours shall be made by the card user to obtain a VAT receipt for the transactions made.

- 11.6 Any Officer using a corporate purchasing card must not to use their own personal loyalty cards (such as Sainsburys, Boots, Tesco etc.) to obtain points/ money for personal gain when making transactions on behalf of the Council.

12. **CONTRACTS FOR BUILDING, CONSTRUCTIONAL AND ENGINEERING WORK**

- 12.1 All contracts entered into by the Council shall be subject to the Council's Procedure Rules.
- 12.2 The Deputy Chief Executive shall be informed as soon as possible of all contracts, agreements, awards or other instruments involving the payment or receipt of money on behalf of the Council. Any variations or extras agreed on behalf of the Council shall be reported by the appropriate Chief Officer to the Deputy Chief Executive. Where such variations or extras cannot be contained within the approved estimate, they shall be subject to the prior approval of Cabinet.
- 12.3 Where contracts provide for payment to be made by instalments, the Deputy Chief Executive shall arrange for the maintenance of a contracts register to show the state of accounts between the Council and the contractor, together with any other payments and the related professional fees.
- 12.4 All payments to contractors on account of contracts shall be on the basis of a certificate signed by the Chief Officer concerned or their authorised Officer, even where outside consultants have been employed. The certificate shall show the total amount of the contract, the value of approved variations thereto, the value of work done and the date of valuation, any amount deducted by way of retention, the amount previously paid and the amount now due for payment.
- 12.5 The Officer designated as Engineer or Architect in any contract for building, civil engineering or mechanical installations shall be the Officer responsible for the issue of all interim and final certificates or for the issue of variation orders. Every variation in any contract shall be authorised in writing by the Chief Officer or a duly authorised Officer.
- 12.6 The Deputy Chief Executive shall be informed of any variation considered essential in the exercise of professional judgement or other circumstances which, after allowing for contingencies already encountered, increases the total authorised amount of the contract.
- 12.7 If, at any time, it appears to the Chief Officer or to the person appointed to supervise the contract that the tender sum or total authorised amount of the contract may be exceeded by more than 10%, then a report of the circumstances shall be submitted to the relevant Committee for approval at the earliest opportunity.
- 12.8 Notwithstanding Financial Regulation 12.7 above and in accordance with section 2 above relating to budgetary control and virement, if it appears to the Chief Officer or person appointed that the tender sum or the total authorised amount of a contract may be exceeded and cannot be contained within the annual estimates or by virement within the limits allowed, then such additional expenditure should not be incurred or authorised without the prior approval of Cabinet.
- 12.9 A final certificate of payment under contract shall not be issued, except upon the requirements of a particular contract by the Chief Officer or duly authorised person acting as supervising Officer, until:

- a) they have made available to the Deputy Chief Executive a detailed statement of account together with such vouchers, documents and information as the Deputy Chief Executive may require relating to prime cost items, quantities, variations, rates, additions or omissions,
- b) the Deputy Chief Executive shall have been supplied with a certificate of the completion of the work,
- c) the Deputy Chief Executive shall have agreed the amount to be certified,

Nothing in this Financial Regulation shall in any way detract from the responsibilities of the supervising Officer or of any other technical Officer having any duty towards the contract.

- 12.10 The Deputy Chief Executive shall, to the extent they consider necessary, examine final accounts for contracts and they shall be entitled to make all such enquiries and receive such information and explanations as they may require in order to satisfy themselves as to the accuracy of the accounts.
- 12.11 Claims from contractors in respect of matters not clearly within the terms of any existing contract shall be referred to the Deputy Chief Executive for financial consideration and to the Head of Legal Services and Deputy Monitoring Officer for consideration of the Council's legal liability before settlement is reached.
- 12.12 Where completion of a contract is delayed it shall be the duty of the technical Officer concerned to take appropriate action in respect of any claim for liquidated damages and to report their action to Cabinet.
- 12.13 Every architect, engineer or other consultant appointed for the purpose of any contract for building, constructional or engineering works, whether as supervising Officer or otherwise, shall on engagement be placed under an obligation to conform to the requirements of the Financial Regulations.
- 12.14 No site work on schemes for which a borrowing approval, subsidy approval or grant approval is required shall be started prior to the receipt of such approval. A copy of each appropriate approval must be forwarded to the Deputy Chief Executive.
- 12.15 All Officers and Members are required to provide a declaration of interest to the Monitoring Officer where contracts are entered into or orders placed with a third party where the Officer or Member concerned may have cause to be affected financially or otherwise by the decision. Further guidance is contained in the Member and Officer Codes of Conduct or may be obtained from the Monitoring Officer.

### 13. **SALARIES AND WAGES**

- 13.1 After taking account of the requisite arrangements outlined in section 3 of these regulations, the payment of all salaries, wages and other emoluments to all employees or former employees of the Council shall be made by the Chief Executive who shall approve the method of payroll preparation and payment and the form of documents used and records maintained.
- 13.2 Each Chief Officer shall, as regards employees in their department, notify the Chief Executive as soon as possible and in the form prescribed by them of all matters affecting the payment of such emoluments, in particular:

- a) appointments, resignations, dismissals, suspensions, secondments and transfers;
  - b) absence from duty for sickness or other reason apart from approved leave;
  - c) changes in remuneration other than normal increments and pay awards and agreements of general application;
  - d) information necessary to maintain records of service for superannuation, income tax and national insurance, and of a like nature.
- 13.3 Appointments of all employees shall be made in accordance with the regulations of the Council and the approved establishments, grades and rates of pay.
- 13.4 Each Chief Officer shall ensure that adequate records of all time worked are maintained in respect of all employees and that the terms and conditions of the work specifications are adhered to. The following procedures shall be observed in connection with the preparation, allocation and certification of attendance sheets:
- a) attendance sheets shall be prepared, from the details held in each operational area, and be authorised by the Chief Officer of the directorate or by any Officers authorised by them, in manuscript and in the authorised Officers own name,
  - b) attendance sheets shall include a record of all employees in that department, and provide a record of the hours worked by each employee along with leave, overtime and sickness details,
  - c) operational managers are required to maintain such records as may be required by the Chief Officer of the directorate concerned, in order that the accuracy of the hours claimed may be ensured.
- 13.5 The names of Officers authorised to sign time records or other pay documents shall be periodically sent to the Deputy Chief Executive and the Chief Executive together with specimen signatures. All amendments to the list of such names shall be notified to the Deputy Chief Executive and the Chief Executive in writing.
- 13.6 Attendance sheets and other payroll data shall be forwarded to the Chief Executive to comply with such deadlines as may be required.

14. **COUNCIL PROPERTIES**

- 14.1 There shall be maintained a terrier of all properties owned by the Council (except dwellings provided under the Housing Acts) in a form agreed between the Head of Housing and the Deputy Chief Executive, recording the Cabinet, purpose for which held, location, extent, plan reference, purchase details, particulars of nature of interest, rents payable and particulars of tenancies granted.
- 14.2 The Head of Legal Services and Deputy Monitoring Officer shall have the custody of all title deeds under secure arrangements agreed with the Deputy Chief Executive.
- 14.3 All acquisitions, appropriations and disposals of land or property (except Council houses) exceeding £20,000 in value shall be referred to Cabinet for approval.
- 14.4 Lettings, negotiations and settlement of leases and rents for Council-owned land or property (except Council houses) where the annual rental exceeds £10,000 shall be referred to Cabinet for approval. In respect of properties in Beeston Square only,



lettings, negotiations and settlement of leases and rent for Council owned land or property where the annual rental exceeds £100,000 shall be referred to Cabinet for approval.

- 14.5 All easements, licences or other rights or interests affecting land whether granted or to be granted to or by the Council resulting in an annual rental in excess of £10,000, or a capital consideration in excess of £20,000, shall be referred to the Cabinet for approval.

15. **STOCKS AND STORES**

- 15.1 Each Chief Officer shall be responsible for the care and custody of the stocks and stores in their directorate.
- 15.2 The method of valuation of stores shall be approved by the Deputy Chief Executive in consultation with the appropriate Chief Officer and all stores accounts and records controlling the receipt and issue of stores and equipment shall be kept in a form to be approved by the Deputy Chief Executive.
- 15.3 The Deputy Chief Executive shall be entitled to check stores and to receive from each Chief Officer such information as they require in relation to stores for the accounting, costing and financial records of the Council.
- 15.4 Stocks shall not be held in excess of normal requirements, except in special circumstances with the approval of the Chief Officer concerned and the Deputy Chief Executive.
- 15.5 Chief Officers shall arrange for continuous stocktaking at each store and shall ensure that all stocks are checked at least once in every year. The Chief Officer concerned shall issue to the Deputy Chief Executive a certified return of stores on hand at each year end.
- 15.6 Stores deficiencies and surpluses arising from continuous stock checks will be transferred to a Stores On-cost Account subject to the approval of the Deputy Chief Executive. This procedure will apply unless the deficiency on an individual item arising from any stocktaking exceeds £1,000, or the total annual value exceeds £5,000, in which event a report must be submitted to the Cabinet by the appropriate Chief Officer seeking approval to effect an adjustment in the stores accounts.
- 15.7 Disposal of surplus or obsolete materials, stores or equipment shall not be made unless at least three tenders are first obtained, except where the Deputy Chief Executive has approved other arrangements for a particular sale or a particular type of sale. The procedures for receipt, opening and acceptance of tenders shall be described in the Procedure Rules relating to contracts.
- 15.8 Where the value of surplus or obsolete materials, stores or equipment exceeds £3,000 on a particular item, disposal shall not take place without prior consideration by Cabinet.

16. **VEHICLES AND PLANT**

- 16.1 Each Chief Officer concerned shall ensure that records are maintained in respect of vehicles and plant under their control. Such records shall be kept in a manner approved by the Deputy Chief Executive and shall include details of usage, mileage and fuel consumed.

- 16.2 The Deputy Chief Executive, in consultation with the appropriate Chief Officer, shall be responsible for calculating and reviewing from time to time the hourly rates to be charged for the use of vehicles and plant.

17. **SECURITY**

- 17.1 A nominated Officer of the Council shall be responsible for maintaining proper security at all times for all public buildings.
- 17.2 Each Chief Officer is responsible for the stocks, stores, furniture, equipment, cash and other items under their control. They shall consult the Deputy Chief Executive in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 17.3 Each Chief Officer is responsible for items of furniture, equipment and cash and other items belonging to individuals who are not employees or Members of the Council temporarily taken into their control and shall record and make proper arrangements for the security of such items until they can be returned to the owner or the owner's representative.
- 17.4 Maximum limits for cash holdings shall not exceed the limits set down in the Council's policies of insurance, details of which shall be notified by the Deputy Chief Executive to the appropriate Chief Officers.
- 17.5 The Chief Officer shall arrange that designated Officers be responsible for the keys of all safes or similar receptacles and shall notify the Deputy Chief Executive of the names of such Officers. Such Officers shall keep the keys personally and not leave them on the premises. Duplicate keys shall be kept by the Chief Officer or in such a manner as may be approved by the Deputy Chief Executive. The loss of keys must be reported to the Deputy Chief Executive immediately.
- 17.6 Each Chief Officer shall be responsible for ensuring that information held within their directorate conforms to the Council's Information Management Strategy and Information Security Policy.
- 17.7 Each Chief Officer shall be responsible for ensuring that all information containing personal data within their directorate comply with the Council's Data Protection Policy and any other guidance as may be issued from time to time.

18. **INSURANCES**

- 18.1 The Deputy Chief Executive shall effect all insurance cover and, in consultation with other Officers where necessary, negotiate all claims and maintain the necessary records.
- 18.2 Each Chief Officer shall give prompt notification to the Deputy Chief Executive of the extent and nature of all new risks, properties or vehicles which require to be insured and of any alterations affecting existing insurances in their directorate.
- 18.3 Chief Officers shall notify the Deputy Chief Executive without delay and in writing, of any loss, liability or damage which constitutes a claim or is likely to lead to a claim. In no circumstances should an Officer admit liability for loss, damage or injury, however sustained.

- 18.4 All appropriate employees of the Council shall be included in a fidelity guarantee policy of insurance.
- 18.5 The Deputy Chief Executive shall carry out a review of insurances annually or at such other period as they may consider necessary, in consultation with other Chief Officers as appropriate.
- 18.6 Chief Officers shall consult the Deputy Chief Executive and the Head of Legal Services and Deputy Monitoring Officer regarding the terms of any indemnity which the Council is requested to give.
- 18.7 All employees using their car for Council business shall, on request, produce to the Deputy Chief Executive such policies or certificates of insurance and/or premium receipts and driving licences as may be necessary to ensure that adequate cover continues to be maintained against any liability of the Council arising out of official use.

19. **INVENTORIES**

- 19.1 Inventories in a form approved by the Deputy Chief Executive shall be kept of property belonging to or in the care of the Council and shall be maintained in all sections of all directorates. They shall be added to or amended by the Chief Officer in respect of the sections under their control and shall record an adequate description of furniture, fittings and equipment, plant and machinery. Items of a material value should be notified to the Deputy Chief Executive in order that appropriate insurance cover can be provided. Advice as to items suitable to be shown on an inventory will be provided by the Deputy Chief Executive.
- 19.2 Each Chief Officer shall be responsible for making such checks upon items on the inventory as will ensure the accuracy of the records and the safeguarding of the equipment. Surpluses or deficiencies shall be reported to the Deputy Chief Executive and shall be noted on the inventories concerned.
- 19.3 The Deputy Chief Executive shall have access to all property of the Council and to audit the inventories.
- 19.4 All property belonging to the Council shall, as far as practicable, be marked in a suitable manner as being the property of the Council.
- 19.5 The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the Chief Officer concerned.

20. **TRUST FUNDS**

- 20.1 All trust funds shall, wherever possible, be in the name of the Council.
- 20.2 All Officers acting as trustees by virtue of their official position shall deposit all securities, etc. relating to the trust with the Deputy Chief Executive unless the deed provides otherwise.

21. **OFFICERS' TRAVELLING AND SUBSISTENCE ALLOWANCES**

- 21.1 All claims for the payment of car allowances, subsistence allowances, travelling and incidental expenses in connection with the performance of duty, and for reimbursement

of educational expenses incurred on approved courses of study shall be submitted to the Chief Executive. Such claims shall be duly certified as correct by each Officer submitting a claim in a form approved by the Chief Executive. Claims for the payment of car allowances shall be made up to the last day of each month and submitted to the Chief Executive within five days thereof.

- 21.2 The names of Officers authorised to certify such claims shall be sent to the Deputy Chief Executive and the Chief Executive by each Chief Officer together with specimen signatures.
- 21.3 The certification by or on behalf of the Chief Officer shall be taken to mean that the certifying Officer is satisfied that the journeys were authorised, the expenditure properly and necessarily incurred and that the allowances are properly payable by the Council.
- 21.4 All claims shall be accompanied, as appropriate, by a valid VAT certificate relevant to the period of the claim and shall not otherwise be certified in accordance with Financial Regulation 21.1 above.

22. **MEMBERS' TRAVEL, SUBSISTENCE AND ATTENDANCE ALLOWANCES**

- 22.1 Procedure for submitting claims and making payments, and the documents to be kept in respect of Members' Travelling, Subsistence and Attendance Allowances shall be under the control of the Chief Executive and shall be as laid down in guidance which is available to all Members.

23. **NON COMPLIANCE WITH AND INTERPRETATION OF REGULATIONS**

- 23.1 The Deputy Chief Executive shall, if necessary, after consultation with the Monitoring Officer and the Chief Officer of the directorate concerned, report to the Cabinet any non-compliance with Financial Regulations.
- 23.2 Any doubt as to the interpretation of these Financial Regulations, if unresolved after consultation with the Monitoring Officer, shall be referred to Cabinet.
- 23.3 The attention of all employees and Members is drawn to the Accounts and Audit Regulations 2015 and the CIPFA/IIA Public Sector Internal Audit Standards and associated Local Government Application Notes.

# **Broxtowe Borough Council Constitution**

## **Chapter 4 – Part 2**

### **Financial Regulations (Contracts)**

## **Chapter 4 Part 2 : Financial Regulations (Contracts)**

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## **BROXTOWE BOROUGH COUNCIL**

### **CONTRACT PROCEDURE RULES**

The Procedure Rules below have been approved by the Council relating to contracts and are incorporated into the Council's Procedure Rules accordingly. These Procedure Rules should be read alongside the Procurement and Commissioning Strategy.

#### **1. Basic principles and compliance with Procedure Rules**

##### **1.1. All purchasing and disposals procedures must:**

- a) aim to achieve value for money (VfM)
- b) ensure the health, safety and wellbeing of staff and the general public
- c) be consistent with the highest standards of integrity
- d) ensure transparency and fairness at all times in allocating public contracts
- e) have the required technical assessment and approval
- f) comply with all legal requirements
- g) have budgetary approval
- h) ensure that non-commercial considerations do not influence any contracting decision except where specifically referred to in these Procedure Rules
- i) support the Council's vision and priorities around sustainable procurement, economic growth, Corporate Social Values and environmental issues
- j) comply with the Council's Procurement and Commissioning Strategy.

##### **1.2. Every contract and the procedures relating to the selection of tenderers and the obtaining, opening and evaluation of tenders or quotations shall comply with these Procedure Rules and no exception from any of the following provisions of these Procedure Rules shall be made otherwise than by the direction of the Council or by Cabinet or by the Chief Executive or duly nominated substitute.**

##### **1.3. A record of any exception from any of the provisions of these procedure rules, together with the reasons therefore, shall be included in the minutes of the full Council or Cabinet by which the exception was made, as the case may be.**

##### **1.4. In these Contract Procedure Rules, reference to the Procurement Officer shall mean the current Procurement and Contracts Officer or such other Officer as shall be providing oversight and strategic advice on the Council's procurement functions.**

##### **1.5. Procurement Exercises must comply with the Public Contracts Regulations 2015 (PCR 2015).**

## 2. Procurement options

- 2.1. Officers should consider what procurement method is most likely to achieve the purchasing objectives with the preference being for use of a suitable Framework Agreement, or an open tender process to be used wherever possible. Regardless of the procurement options chosen, all UK and EU legislation and directives should be complied with.

### 2.2. Collaborative procurement

- a) In order to secure value for money the Council may decide to enter into collaborative procurement arrangements. All purchases made via a local authority procurement consortium are deemed to comply with the Council's contract procedures and no exemption is required.
- b) Purchases above the EU threshold must be let under the EU procedure unless the consortium concerned has satisfied this requirement already by letting their contract in accordance with the EU procedure on behalf of the Council and other consortium Members.
- c) Any contract entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed which complies with the contract procedure rules of the leading organisation, will be deemed to comply with these Procedure Rules and no exemption is required.

### 2.3 Framework Agreements

Framework agreements must only be used where the Council is either a named participant or where the Council is a recognisable class of contracting Council under the terms of the framework agreement.

Contracts based on framework agreements may be awarded by either:

- a) applying the terms laid down in the framework agreement (where such terms are sufficiently precise) without reopening competition (direct award), or
- b) where the terms laid down in the Framework Agreement are not precise enough or it may be possible to obtain improved value for money, by holding a mini competition amongst all the organisations included within the Agreement.

### 2.4. Multiple contracts

Where the aggregated value across all departments within the Council on a number of individual contracts for similar Goods, Services or Works (as defined by the main category Common Procurement Vocabulary Code) within a period of 48 months is likely to exceed the threshold values as laid down in these Procedure Rules, then Officers shall seek guidance from Procurement. Procurement will consolidate all requirements and manage the procurement exercise, ensuring compliance with (PCR 2015).

### 2.5. Public Auctions

The appropriate Senior Officer in consultation with the Deputy Chief Executive or the Chief Executive may resolve whether the acquisition or disposal of goods or materials



by the Council up to an anticipated value of £150,000 should be by way of public auction. Purchases and sales of goods or materials of an anticipated value in excess of £150,000 shall only be conducted at auction with the approval of Cabinet.

## 2.6. Electronic Reverse Auctions

Reverse auctions to procure Works, Goods or Services should be conducted through the Council's e-Tendering portal. Reverse auctions will be run by the Procurement Officer.

## 2.7. Extensions

- a) Contracts may be extended where the Work to be executed or, Goods or Services to be provided constitute an extension of time, or an increase in value of an existing contract, provided that such an extension or increase has been reflected in any contract documents or the value of such an extension is less than 10% of the original contract value.
- b) Contracts may not be extended unless the option to do so was included when first advertised.
- c) In exceptional circumstances, existing arrangements may need to be continued to allow sufficient time to conduct a robust procurement exercise. This must not be used to mitigate poor planning.

## 3. Exemptions

- 3.1 Where a proposed contract is likely to exceed the OJEU threshold all actions must be in accordance with PCR 2015. Procurement advice should be sought.
- 3.2 Where an exemption is necessary because of unforeseeable emergency involving immediate risk to persons, property or serious disruption to council services, approval must be sought from the Chief Executive, or in their absence the Deputy Chief Executive. Where this situation arises, a report must be sent to the next appropriate Cabinet detailing the action taken.
- 3.3 Nothing in these Procedure Rules and procedures shall require competitive tenders to be invited in any of the following circumstances:
  - a) The work to be executed or the goods or materials to be supplied consist of repairs to or the supply of compatible parts to existing proprietary machinery or plant by the manufacturers or their agents which cannot be cost effectively provided by other suppliers.
  - b) The estimated expenditure is less than £25,000, provided that the appropriate Senior Officer shall take reasonable steps to secure the order at the most competitive price
  - c) The sale or purchase is by or at public auction.

## 4. Relevant contracts

- 4.1 All relevant contracts must comply with these Procedure Rules and procedures. A relevant contract is any arrangement made by or on behalf of the Council for the supply of goods or services, or for the carrying out of works.

- 4.2 Relevant contracts may include verbal instructions to provide goods or services or to carry out works. This can commit the Council without any appropriate terms and conditions, insurance, health and safety requirements supplier accreditation, budget checks etc. being carried out or agreed. For this reason, all requirements must be communicated to suppliers by a signed Contract or an official Purchase Order with appropriate authorisation, prior to the commencement of any works or supply of any goods or services.
- 4.3 Users of Council Purchase Cards should consider which terms and conditions apply, insurances, health and safety requirements, supplier accreditation and budget for all purchases.
- 4.4 Relevant contracts do not include:
- (a) contracts of employment which make an individual a direct employee of the Council.
  - (b) treasury management deals for borrowing or investment which fall to be dealt with in accordance with the treasury management and investment strategies.

## 5 Purchases - competition requirements

- 5.1 The process to be followed in conducting the purchasing of goods, materials or services is:

<b>Classification</b>	<b>Value</b>	<b>Actions</b>	<b>Decision</b>
Very Low Value	Below £1,000	Ensure Value for Money	Senior Officer
Low Value	From £1,000 to £25,000	Obtain three quotations <i>(Note)</i>	Senior Officer
Medium Value	From £25,000 to OJEU threshold	Conduct Tender exercise (Procurement)	Deputy Chief Executive
Above Threshold	Over OJEU threshold	Conduct Tender exercise (Procurement)	Deputy Chief Executive

*Note: The relevant Senior Officer (as defined in the Scheme of Delegation) can decide if quotations are needed and/or are appropriate in order to demonstrate Value for Money.*

- 5.2 Where it is considered appropriate the Council can choose to go out to tender in order to ensure Value for Money even if this is not required by these Procedure Rules and procedures.
- 5.3 For purchases over £25,000 in value, where, despite being advertised in accordance with clause 7 fewer than three tenders are received, the Senior Officer shall report details of the quotations received, with reasons for the limited response to the Deputy Chief Executive. The contract shall be awarded to the Most Economically Advantageous Tender (MEAT) received.

## 6 E-Communication

- 6.1 All Open Procurement Exercises over £25,000 must be conducted by e-communication via dedicated e-Tendering portal with an electronic post-box and a secure vault to hold tenders until due. ensuring robust auditable processes

Note: In this context emails do not count as e-communication.

## 7 Advertising

- 7.1 All 'Open' Procurement Exercises over £25,000 must be advertised on the Governments 'Contracts Finder' portal, with a link to the opportunity on the Council's e-Tendering portal. It is recommended that opportunities are also advertised on the 'Source Nottinghamshire' portal and in any relevant 'trade' journals.
- 7.2 Links to advertisements of Procurement Exercises should be sent to incumbent suppliers and any other suppliers who have expressed an interest in supplying the Council. This will allow them to register and obtain relevant documents.
- 7.3 Advertisements should allow at least 30 days from publication for suppliers to obtain documentation and respond with their bid.
- 7.4 'Restricted' Procurement Exercises", using suppliers from an existing Framework Agreement should not be advertised. All suppliers on the Framework Agreement must be invited to join the Procurement Exercise. Suppliers not on the Framework Agreement may not join the Procurement Exercise.

## 8 Specifications

- 8.1 Specifications must be performance based, with a focus on the result required, rather than how it is achieved.
- 8.2 Options for alternative solutions should be allowed. Wherever possible, Suppliers should be encouraged to use their expertise to develop innovative ideas which could provide improved performance, service levels and reduced costs
- 8.3 Specifications must not include details of manufacturer or model, unless new equipment is specifically required to integrate with legacy equipment, in which case details of existing equipment should be provided to ensure compatibility.

## 9 Award criteria

- 9.1 Award criteria should be designed to encourage innovation and creative responses.
- 9.2 All invitations to tender must detail the award criteria and assessment methodology which will be used. The exercise must be designed to secure an outcome giving demonstrable value for money for the Council. The options are:
- a) 'most economically advantageous', (preferred option), where considerations other than price also apply, or
  - b) 'lowest price', where payment is to be made by the Council, or
  - c) 'highest price', where payment is to be received by the Council.

- 9.3 When 'most economically advantageous' is adopted, it must be fully defined in the documentation supplied to tenderers, detailing assessment criteria which must be wholly relevant to the procurement. These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental features, technical performance, functional characteristics, safety, after sales service, technical assistance, social value added and any other relevant matters. The extent and weighting of these criteria must be declared and documented when sending out any details.
- 9.4 The weighting of non-financial criteria within a proposed contract must;
- a) reflect their importance to the Council,
  - b) ensure equal treatment of all potential suppliers,
  - c) not preclude or give undue preference to any supplier
  - d) ensure that all dealings with suppliers are undertaken on a fair, equitable and transparent basis
  - e) be designed to give the Council the best possible outcome
- 9.5 All evaluations must comply with PCR 2015 and have regard to the financial and technical standards relevant to the contract and the award criteria.
- 9.6 Wherever possible a breakdown of costs should be requested, to allow minor adjustment of scope to meet changing circumstances.

## 10 Transparency

- 10.1 In line with the Local Government Transparency Code, the Council will publish on its website on a quarterly basis details (as prescribed in the code), of all procurement exercises and contracts entered into with a value exceeding £5,000.

## 11 Submission, receipt and opening of tenders/quotations

- 11.1 Prospective suppliers must be given an adequate period in which to prepare and submit a proper quotation or tender consistent with the complexity of the contract requirement and any EU procedures. PCR 2015 requires a minimum of 30 days for the Open Procedure, unless a Prior Information Notice has been published.
- 11.2 Electronic submission of quotations and tenders is required by PCR 2015. This is conducted through the Council's preferred e-Tendering portal. Tenders remain within the portal's secure vault until the closing date and time. The vault shall be unlocked, releasing all tenders simultaneously, by the Deputy Chief Executive, or an officer of the Council designated by him.

NOTE: All Tender documents, including pricing information are securely retained in the vault within the e-Tendering portal. This information is not visible until the vault is un-locked and cannot be changed once opened. All actions conducted within the portal are recorded and are fully auditable. There is therefore no requirement to witness the tender opening or record any data.

## 12 Late tenders and quotations

- 12.1 Tenders cannot be uploaded to the e-Tendering portal after the closing date and time.

12.2 Any quotation received for procurement exercises below £25,000, after the specified date and time where the e-Tendering portal has not been used, shall not be considered unless the appropriate Senior Officer, with the approval of the Deputy Chief Executive, consider that exceptional circumstances warrant it. Appropriate supporting documentation must be maintained to substantiate the decision taken.

12.3 Under no circumstances can any late quotation be considered after the other quotations have been opened.

### 13 Sale of Council Assets

13.1 All disposals of land, property or equipment (excluding Council housing) estimated to be below £25,000 in value shall only be disposed of with the prior approval of the appropriate Senior Officer acting in accordance with the agreed policy governing the disposal of land and property owned by the Council and any other policy agreed from time to time by full Council and/or Cabinet.

13.2 All disposals of land, property or equipment (excluding Council housing) estimated to be between £25,000 and £100,000 in value shall only be disposed of with the prior approval of the appropriate Chief Officer acting in accordance with the agreed policy governing the disposal of land and property owned by the Council and any other policy agreed from time to by full Council and/or Cabinet.

13.3 All disposals of land, property or equipment (excluding Council housing) estimated to exceed £100,000 in value shall only be disposed of with the prior approval of Cabinet. In such cases Cabinet will decide upon the details of disposal having regard to the approved policy governing disposal of land and property owned by the Council and any other policy agreed from time to time by a by full Council and/or Cabinet.

13.4 Wherever possible sale of assets by tender will be conducted electronically using the Council's preferred e-Tendering portal.

13.5 Tenders shall remain in the custody of the Deputy Chief Executive or an Officer of the Council designated by them until they are opened. Where tenders are not electronic, they shall be opened at one time, by the appropriate Senior Officer, in the presence of the Deputy Chief Executive or his/her representative. Commercial details within the tenders shall be immediately initialled and dated by those present at the opening. The names of the tenderers and the amounts of the tenders shall be immediately recorded in a register kept by the Deputy Chief Executive and the persons present at the opening of such tenders shall record their presence in the said register.

13.6 The appropriate Senior Officer shall accept the highest offer received subject to scrutiny and shall report the acceptance to Cabinet.

### 14 Clarification procedures

14.1 Providing clarification for an invitation to tender or invitation to quote to potential or actual organisations involved or seeking clarification of a tender/quotation, is permitted. However, these matters shall take place in such a way as to not disadvantage or show favour towards any individual organisation involved. All questions, in non-attributable form, together with the Council's responses, will be posted on the e-Tendering portal, for all tenderers to see.

- 14.2 Exceptionally, tenderers may request information is not published if it could damage their commercial advantage or disclose their innovative ideas. The Deputy Chief Executive or his/her representative will determine whether such information can be withheld from all other tenderers.
- 14.3 Where a meeting or a site visit is required all tenderers should be invited to attend a single meeting so all are given the same information and have opportunities to ask questions and hear responses. Minutes should be taken of any meetings and published on the e-Tendering portal to ensure all tenderers, including those not attending, have the same information.
- 14.4 Where an error is discovered in a tender during scrutiny by the Council's Officers, clarification should be sought. Clarifications obtained must be detailed in the tender evaluation report, with a recommendation to accept or reject any required corrections. Suppliers shall have the opportunity to withdraw their tender if they have made an error.

## 15 Post tender negotiations

- 15.1 Post tender negotiations may be required, when prices tendered exceed the available budget, to confirm financial commitments or other terms contained in the tender, or to ensure the Council obtains Value for Money. Approval should be obtained from the Deputy Chief Executive or Cabinet, following a recommendation from the Procurement Officer or appropriate Senior Officer. Post tender negotiations will be led by the Procurement Officer.
- 15.2 Post tender negotiations should be carried out after tenders have been received and evaluated, with the tenderer identified as having submitted the tender presenting the best price-quality scores in accordance with the published award criteria, provided this:
- a) does not have the effect of materially modifying essential aspects of the tender or of the public procurement, including the needs and requirements set out in the contract notice or in the descriptive document, and
  - b) does not risk distorting competition or causing discrimination.

## 16 Acceptance of tenders and quotations

- 16.1 Tenders and quotations must be evaluated and contracts awarded strictly in accordance with the published evaluation criteria stated within them. The evaluation criteria should (where possible) include both price and quality elements.

## 17 Reports on tenders

- 17.1 For contract values in excess of £25,000 a tender evaluation report should be prepared by the appropriate Senior Officer and presented to the Deputy Chief Executive, or Cabinet where the amount is in excess of budgetary provision, with a recommendation as to the tender that should be accepted and the basis for such a recommendation.
- 17.2 Where the tender recommended for acceptance is for an amount in excess of the approved budgetary provision, then the appropriate Senior Officer if below £25,000 or Deputy Chief Executive if in excess of £25,000 may:
- a) apply to Cabinet for approval to a revised budget for the scheme, or

- b) recommend post tender negotiations with the lowest tenderer, in accordance with 15.1 and 15.2, to reduce the tendered amount by value engineering to bring the cost of the work within the approved budget. The effect of such revision and negotiation shall be reported to Cabinet.
- c) declare the procurement exercise void, produce a new and fundamentally different specification which will ensure lower costs and commence a new procurement exercise.

## 18 Due diligence

- 18.1 If there is any doubt about the sustainability or capability of the Supplier or of the Contract, due diligence must be carried out prior to award. It is in nobody's interest to place a Contract which subsequently fails. Due diligence may include independent financial checks (i.e. Dunn and Bradstreet), obtaining references (preferably from other Public Sector bodies), visiting other works which have been completed and ensuring the supplier has sufficient available capacity with suitably experienced and qualified staff.

## 19 Form of contracts

- 19.1 All contract documents and Terms and Conditions for relevant contracts which exceed £25,000, including any correspondence, shall be subject to scrutiny by and approval of the Head of Legal Services and Deputy Monitoring Officer or in their absence by a designated Officer prior to commencing any Procurement Exercise.
- 19.2 The Head of Legal Services and Deputy Monitoring Officer shall determine when it is appropriate for a separate relevant contract to be produced and should be consulted by Officers where there is any doubt as to this requirement.
- 19.3 Every relevant contract which is less than £25,000 shall be in writing and be signed by the appropriate Senior Officer after consultation with the Procurement Officer and Head of Legal Services and Deputy Monitoring Officer. The Senior Officer is responsible for ensuring there is sufficient budget available.
- 19.4 Every relevant contract which exceeds £25,000 shall be in writing, and unless under seal, shall be signed by the Deputy Chief Executive or in their absence by a designated Officer, after consultation with Procurement and the Head of Legal Services and Deputy Monitoring Officer.
- 19.5 Contract under seal – the common seal shall be kept in legal services. It shall be signed by the Head of Legal Services and Deputy Monitoring Officer or the appropriate Officer identified as the proper Officer for these purposes and such signature shall be witnessed by an Officer or Member of the Council.
- 19.6 Every contract in writing shall specify:
  - a) the Works, Goods or Services, to be provided,
  - b) the location, that the Works, Goods or Services, are to be provided
  - c) the prices to be paid, including details of how any staged payments will be managed and a statement of discounts or other deductions and,

- d) the time or times within which the contract is to be performed.
- e) the Terms and Conditions which apply.

- 19.7 Every relevant contract which exceeds £25,000 shall provide for liquidated damages to be paid by the supplier in case the terms of the contract are not duly performed unless the Deputy Chief Executive, in consultation with the appropriate Senior Officer, considers it to be unnecessary. Costs for liquidated damages should be pre-agreed and detailed in the Contract wherever possible.
- 19.8 After consultation with the appropriate Senior Officer and the Procurement Officer the Head of Legal Services and Deputy Monitoring Officer shall, where they consider it necessary, take on behalf of the Council sufficient security including Performance Bonds for the due performance of every contract for the execution of works which exceed £25,000.
- 19.9 Each contract for the execution of Works in excess of £25,000 shall contain a clause specifying the percentage deduction to be made from instalment payments to the supplier to provide a retention sum, and the period and conditions for holding and releasing such retention sum.
- 19.10 In every written contract for the supply of goods, materials or services which exceeds £25,000 in value, a clause may, where appropriate, be inserted to secure that, should the supplier fail to deliver the goods, materials or services or any portion of them within the time or times specified in the contract, the Head of Legal Services and Deputy Monitoring Officer or Cabinet, without prejudice to any other remedy for breach of contract, shall be at liberty to determine the contract either wholly or to the extent of such default and to purchase other goods, materials or services, as the case may be, of the same or similar description to make good (a) such default or (b), in the event of the contract being wholly determined, the goods, materials or services remaining to be delivered. The clause shall further secure that, the amount by which the cost of so purchasing other goods, materials or services exceeds the amount which would have been delivered in accordance with the contract, shall be recoverable from the supplier.

## 20 Prevention of corruption and collusion

- 20.1 The Council may cancel the contract and recover from the supplier the amount of any loss resulting from such cancellation if the supplier shall have committed an offence under the Bribery Act 2010 or the Local Government Act 2000, together with any amendment thereto.

## 21 Declaration of interests

- 21.1 If it comes to the knowledge of a Member or Officer of the Council that a contract in which they (or partner or close member of the family) has a personal interest or pecuniary/non-pecuniary interest has been or is proposed to be entered into by the Council, they shall immediately notify the Monitoring Officer.



# **Broxtowe Borough Council Constitution**

## **Chapter 5 – Part 1**

### **Member Code of Conduct**

## **Chapter 5 Part 1:**

### **Member Code of Conduct of Broxtowe Borough Council**

#### **Part 1: General Provisions**

##### **Introduction**

This section sets out general interpretation and background to the Code of Conduct, including definitions used within the Code, the purpose of the Code, the principles the Code is based on and when the Code applies. It does not form part of the Code of Conduct itself and consequently does not contain any obligations for you to follow, as these are contained in the 'Code of Conduct' section below.

All Councils are required to have a local Member Code of Conduct.

##### **Definition**

For the purposes of this Code of Conduct, a "Member" means a Member or Co-opted Member of Broxtowe Borough Council ('the Council').

A "Co-opted Member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a Member of the Council but who

- a) is a Member of any Committee or Sub-Committee of the Council, or;
- b) is a Member of, and represents the Council on, any Joint Committee or Joint Sub-Committee of the Council;

and who is entitled to vote on any question that falls to be decided at any meeting of that Committee or Sub-Committee".

##### **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a Member, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Members, Council Officers and the reputation of the Council and local government. It sets out general principles of conduct expected of all Members and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of Member and local government.

You are Member or Co-opted Member of the Council and you have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

## **Application of the Code of Conduct**

The Code of Conduct has been adopted by the Council under Section 27 of the Localism Act 2011.

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office or attend your first meeting as Member or Co-opted Member and continues to apply until you cease to be a Member.

The Code of Conduct applies to you when you are acting in your capacity as a Member or Co-opted Member of the Council and conduct the business of the Council (which, in this Code includes the business of the office to which you are elected or appointed).

Where you act as a representative of the Council on another Council, you must, when acting for that other Council, comply with that other Council's Code of Conduct.

When you act as a representative of the Council on any other body, you must, when acting for that other body, comply with this Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are expected to uphold high standards of conduct and show leadership at all times when acting as a Member.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct. It is your responsibility to comply with the provisions of this Code and to ensure all its obligations are met. You are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct, which you are unsure of. Town and Parish Members are encouraged to seek advice from their Clerk (who may refer matters to the Monitoring Officer).

## **General principles of Member conduct**

In accordance with the Localism Act provisions, when acting in this capacity you are committed to behaving in a manner that is consistent with the following Seven Principles of Public Life also known as the Nolan Principles set out below: These general principles underpin the obligations in the Code of Conduct that follows and aim to achieve best value for our residents and maintain public confidence in this Council:

## **SEVEN PRINCIPLES OF PUBLIC LIFE:**

1. **SELFLESSNESS:** Holders of public office should act solely in terms of the public interest.
2. **INTEGRITY:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.
3. **OBJECTIVITY:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
4. **ACCOUNTABILITY:** Holders of public office are accountable for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your office internally and externally, including by local residents.
5. **OPENNESS:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
6. **HONESTY:** Holders of public office should be truthful.
7. **LEADERSHIP:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## **Part 2 – Member Code of Conduct**

### **General Obligations:**

This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

#### **1. Respect**

- 1.1 You must always treat all others with respect, including the organisations, staff and public you engage with and those you work alongside.
- 1.2 You must value colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect between you that is essential to good local government.

#### **2. Bullying, harassment and discrimination**

- 2.1 You must not do anything which may cause the Council to breach any of the equality enactments.
  - a) bully any person;

- b) harass any person;
- c) behave in an improper or offensive manner;
- d) discriminate unlawfully against any person due to their race, age, religion, gender, sexual orientation or disability and will promote equalities.

### **3. Impartiality of Officer of the Council**

- 3.1 You must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
- 3.2 You must deal with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.

### **4. Confidentiality and access to information**

- 4.1 You must not disclose information:
  - a) given to you in confidence by anyone, or
  - b) acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, unless:
    - i) you have the consent of a person authorised to give it;
    - ii) you are required by law to do so;
    - iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
    - iv) the disclosure is:
      - 1. reasonable and in the public interest; and
      - 2. made in good faith and in compliance with the reasonable requirements of the Council.
      - 3. you have consulted the Monitoring Officer [or Clerk] prior to its release.
- 4.2 You must not improperly use knowledge gained solely as a result of your role as a Councillor for the advancement of yourself, your friends, your family members, your employer or your business interests.
- 4.3 You must not prevent another person from gaining access to information to which that person is entitled by law.

## **5. Disrepute**

- 5.1 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

## **6. Use of your position**

- 6.1 You 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.
- 6.2 You will not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

## **7. Use of local authority resources and facilities**

- 7.1 You must not misuse Council resources;
- 7.2 You must, when using or authorising the use by others of the resource of the Council act in accordance with the Council's reasonable requirements;
- 7.2 You must ensure that such resources are not used improperly, including use for political and party political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which you have been elected or appointed.

## **8. Decision making**

- 8.1 When reaching decisions on any matter you must have regard to any relevant advice provided to you by Officers of the Council acting pursuant to their statutory responsibilities (including a Proper Officer designated by the Council), or other professional Officers of the Council, taking all relevant information into consideration, remaining objective and making decisions on merit
- 8.2 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed.
- 8.3 You must behave in accordance with all the Council's legal obligations, alongside any requirements contained within this Council's policies, protocols and procedures.
- 8.4 You must not allow other pressures to unreasonably deter you from pursuing constituents' casework, the interests of the Council's area or the good governance of the Council in a proper manner.

## **9. Complying with the Code of Conduct**

- 9.1 You will undertake Code of Conduct training provided by your Council.
- 9.2 You will fully cooperate with any Code of Conduct investigation and/or determination.

- 9.3 You will not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings; in relation to an allegation that a Member (including yourself) has failed to comply with their Council's Code of Conduct;
- 9.4 You will comply with any sanction imposed on you following a finding that you have breached the Code of Conduct.

## **Protecting your reputation and the reputation of the Council**

### **10. Interests**

- 10.1 You will register and disclose your interests in accordance with the provisions set out in Appendix A.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of Members of the Council. The register is publically available and protects you by demonstrating openness and willingness to be held accountable.

You are personally responsible for deciding whether or not you should disclose an interest in a meeting which allows the public, Council employees and fellow Councillors know which of your interests gives rise to a conflict of interest. If in doubt you should always seek advice from your Monitoring Officer.

You should note that failure to register or disclose a disclosable pecuniary interest as defined in Appendix A, is a criminal offence under the Localism Act 2011.

### **11. Gifts and hospitality**

- 11.1 You will not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.
- 11.2 You will register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.
- 11.3 You will register with the Monitoring Officer any significant gift or hospitality with an estimated value of at least £25 that you have been offered but have refused to accept

### **12. Dispensations**

- 12.1 You may request a dispensation from the Monitoring Officer for one meeting only.
- 12.2 You must make the request in writing detailing what my interest is, why the dispensation is required and for what meeting.
- 12.3 You must make any request 5 days prior to the meeting at which the Dispensation is required.
- 12.4 You must make any further requests for dispensation to the Standards Hearing Sub-Committee.

12.5 You will only be granted a Dispensation where there are reasonable grounds for doing so and where such grounds are in the public interest.

Appendix A sets out the situations where a Member's personal interest in a matter may prevent them from participating in the decision-making process. In certain circumstances, however, there may be reasonable grounds to allow a Member to participate in decision-making on that matter where it would be in the public interest to do so. Where you consider that there may be good grounds for you to continue to participate you should request a dispensation from the Monitoring Officer.



## Disclosable Pecuniary Interests

### 1. Definitions

“Disclosable Pecuniary Interest” means any interest described as such in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and includes an interest of yourself, or of your Partner (if you are aware of your Partner's interest) that falls within the descriptions set out in the following table. A Disclosable Pecuniary Interest is a Registerable Interest.

“Partner” means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

### Table of Disclosable Pecuniary Interests

Subject	Prescribed description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain, which you, your spouse or civil partner, undertakes. {any unpaid directorship}
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from your Council) made or provided within the previous 12 month period in respect of any expenses incurred by you in carrying out 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.
<b>Any contracts</b>	Any contract which is made between you, your spouse or your civil partner or person with whom you are living with as spouse or civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and the Council under which a) goods or services are to be provided or works are to be executed; and b) which has not been fully discharged.  <i>For this purpose “body in which you or they have a beneficial interest” means a firm which the relevant person is a partner or a body corporate of which the relevant person</i>

	<i>is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest. "Director" includes a Member of the Committee of management of an industrial and provident society.</i>
<b>Land</b>	<p>Any beneficial interest in which you, or your spouse or your civil partner, have and which is within the area of the Council.</p> <p><i>For this purpose " Land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for you, your spouse, civil partner (alone or jointly with another) to occupy the land or to receive income.</i></p>
<b>Licences</b>	Any licences (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of the Council for a month or longer.
<b>Corporate tenancies</b>	Any tenancy where (to your knowledge) a) the landlord is the Council; and b) the tenant is a body in which you, or your spouse or your civil partner or the person with whom the Member is living with, as if they were spouse/civil partners is a partner of or a director of or has a beneficial interest in the securities of.
<b>Securities</b>	<p>Any beneficial interest in securities of a body where: (a) that body (to your knowledge) has a place of business or land in the area of the relevant Council; and (b) either: (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Member, or their spouse or civil partner or the person with whom the Member is living as if they were spouse/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p> <p><i>For this purpose, "securities" mean shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.</i></p>

**Note - Failure to declare a Disclosable Pecuniary Interest and to take part in any discussion in or vote on any matter in which the Member has a pecuniary interest is a criminal offence, which is punishable by a fine of up to £5,000 and disqualification.**

**“Registrable Interests”** are interests that you are required to register in accordance with this Code of Conduct and include both Disclosable Pecuniary Interests and Other Registerable Interests.

**“Other Registerable Interests”** are a personal interest in any business of your Council which relates to or is likely to affect:

- a) any unpaid directorships
- b) any body of which you are in general control or management and to which you are nominated or appointed by your Council; or
- c) any body
  - (i) exercising functions of a public nature
  - (ii) any body directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a Member or in a position of general control or management.

**“Non-Registrable Interests”** are interests that you are not required to register but need to be disclosed in accordance with section 3.3.

A **“Dispensation”** is agreement that you may continue to participate in the decision-making process notwithstanding your interest as detailed at section 12 of the Code of the Conduct and this Appendix.

A **“Sensitive Interest”** is as an interest which, if disclosed, could lead to the Member, or a person connected with the Member, being subject to violence or intimidation. In any case where this Code of Conduct requires to you to disclose an interest (subject to the agreement of the Monitoring Officer in accordance with paragraph 2.4 of this Appendix regarding registration of interests), you do not have to disclose the nature of the interest, if it is a Sensitive Interest in such circumstances you just have to disclose that you have a Sensitive Interest under S32(2) of the Localism Act 2011. You must update the Monitoring Officer when the interest is no longer sensitive, so that the interest can be recorded, made available for inspection and published.

A matter **“directly relates”** to one of your interests where the matter is directly about that interest. For example, the matter being discussed is an application about a particular property in which you or somebody associated with you has a financial interest.

A matter **“affects”** your interest where the matter is not directly about that interest but would still have clear implications for the interest. For example, the matter concerns a neighbouring property.

## 2. Registering Interests

- 2.1 You must, within 28 days of this Code being adopted by the Council, or taking office as a Member or appointed as a Co-opted Member, register all details of Disclosable Pecuniary Interest and Other Registerable Interests, with the Monitoring Officer.
- 2.2 You must upon your re-election as a Member or your re-appointment as a Co-opted Member, within 28 days re-register all details of Disclosable Pecuniary Interest and Other Registrable Interests, with the Monitoring Officer.
- 2.3 You must register any change to a Disclosable Pecuniary Interest or new interest within 28 days of becoming aware of it.
- 2.4 You must notify the Monitoring Officer where you have a Sensitive Interest, with the reasons why you believe it is a Sensitive Interest. If the Monitoring Officer agrees they will withhold the interest from the public register.
- 2.5 You must observe the restrictions the Council places on your involvement in matters where you have a Disclosable Pecuniary Interest or Other Registerable Interest, as defined by the Council.

## 3. Declaration at and Participation in Meetings

If you are present at a meeting and you have either a Registerable or Non-Registerable Interest in any matter to be considered or being considered, and the interest is not a Sensitive Interest, you must disclose that interest to the meeting (whether or not it is registered).

To determine whether your interest affects your ability to participate in a meeting, you must first determine what type of interest you have and, if necessary, go on to apply the tests as set out below.

### 3.1 Disclosable Pecuniary Interests

- 3.1.1 Where a matter arises at a meeting which **directly relates** to one of your Disclosable Pecuniary Interests:

#### **Action to be taken**

- **you must disclose the nature of the interest** at the commencement of that consideration, or when the interest becomes apparent, whether or not such interest is registered in the Council's register of interests of Member and Co-opted Members or for which you have made a pending notification. If it is a sensitive interest you do not have to disclose the nature of the interest, just that you have an interest
- **you must not participate in any discussion** of that particular business at the meeting, or if you become aware of a disclosable pecuniary interest during the meeting you must not participate further in any discussion of the business, including by speaking as a member of the public
- **you must not participate in any vote** or further vote taken on the matter at the meeting and

- **you must withdraw from the room** at this point to make clear to the public that you are not influencing the meeting in anyway and to protect you from the criminal sanctions that apply should you take part, unless you have been granted a Dispensation.

### 3.2 Other Registerable Interests

- 3.2.1 Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests:

#### **Action to be taken**

Where a matter arises at any business of the Council, of its Executive or any Committee of the Executive, or any Committee, Joint Committee, or Joint Sub-Committee of the Council and you have a Disclosable Pecuniary Interest relating to any business that is or will be considered at the meeting:

- **you must disclose** the interest at the commencement of that consideration, or when the interest becomes apparent, whether or not such interest is registered in the Council's register of interests of Member and Co-opted Members or for which you have made a pending notification. If it is a sensitive interest you do not have to disclose the nature of the interest, just that you have an interest
  - **you must not take part in any discussion or vote** on the matter, but may speak on the matter only if members of the public are also allowed to speak at the meeting
  - **you must withdraw from the room** unless you have been granted a Dispensation.
- 3.2.2. The provisions of paragraph 3.1.1 and 3.2.1 shall be applied in such a manner as to recognise that this Code should not obstruct a Member's service on more than one Council. For the avoidance of doubt, participation in discussion and decision making at one Council will not by itself normally prevent you from taking part in discussion and decision making on the same matter at another Council. This is on the basis that a reasonable member of the public will see no objection in principle to such service or regard it as prejudicing a Member's judgement of the public interest and will only regard a matter as giving rise to a Personal Interest which might lead to bias in exceptional circumstances.

### 3.3 Non-Registerable Interests

- 3.3.1 Where a matter arises at a meeting which **directly relates** to a financial interest or the well-being of yourself or of a friend, relative or close associate (and is not a Registerable Interest):

#### **Action to be taken**

- **you must** disclose the interest; if it is a sensitive interest you do not have to disclose the nature of the interest, just that you have an interest
- **you must not take part in any discussion or vote**, but may speak on the matter only if members of the public are also allowed to speak at the meeting; and

- **you must withdraw** from the room unless you have been granted a Dispensation.

3.3.2. Where a matter arises at a meeting which does not directly relate to but **affects**

- a financial interest or the well-being of yourself or of a friend, relative or close associate; or
- a financial interest or wellbeing of a body included in those you need to disclose under Other Registerable Interests

**Action to be taken**

- **you must disclose the interest** and extent of your interest including enough detail to allow a member of the public to understand its nature, at the commencement of that consideration, or when the interest becomes apparent.

In order to determine whether you can remain in the meeting after disclosing your interest the following test in paragraphs 3.3.3 and 3.3.4 should be applied.

3.3.3. Where a matter under paragraph 3.3.2 **affects** the financial interest or well-being or body:

- to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the Ward affected by the decision; and
- a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.

**Action to be taken**

- **you must not take part in any discussion or vote** on the matter but may speak on the matter only if members of the public are also allowed to speak at the meeting; and
- **you must withdraw from the room** unless you have been granted a Dispensation.

3.3.4. Where a matter under paragraph 3.3.2 **does not affect** the financial interest or well-being or body:

- to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the Ward affected by the decision; and/or
- a reasonable member of the public knowing all the facts would not believe that it would affect your view of the wider public interest

**Action to be taken**

- **you may remain in the room,**
- **you may speak** if you wish to and take part in any discussion or
- **you may vote** on the matter, provided you have disclosed your interest under paragraph 3.3.2.

#### **4. Single-Member-Decision-Making**

4.1. In the event that you are making a decision as a single Member the following section applies in relation to any interests you may have.

4.1.1. Where you have a personal interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your Executive function (i.e., single-Member-decision-making) and the interest is:

- a) A Registrable Interest; or
- b) A Non-Registrable Interest that falls under paragraph 3.3.3 above

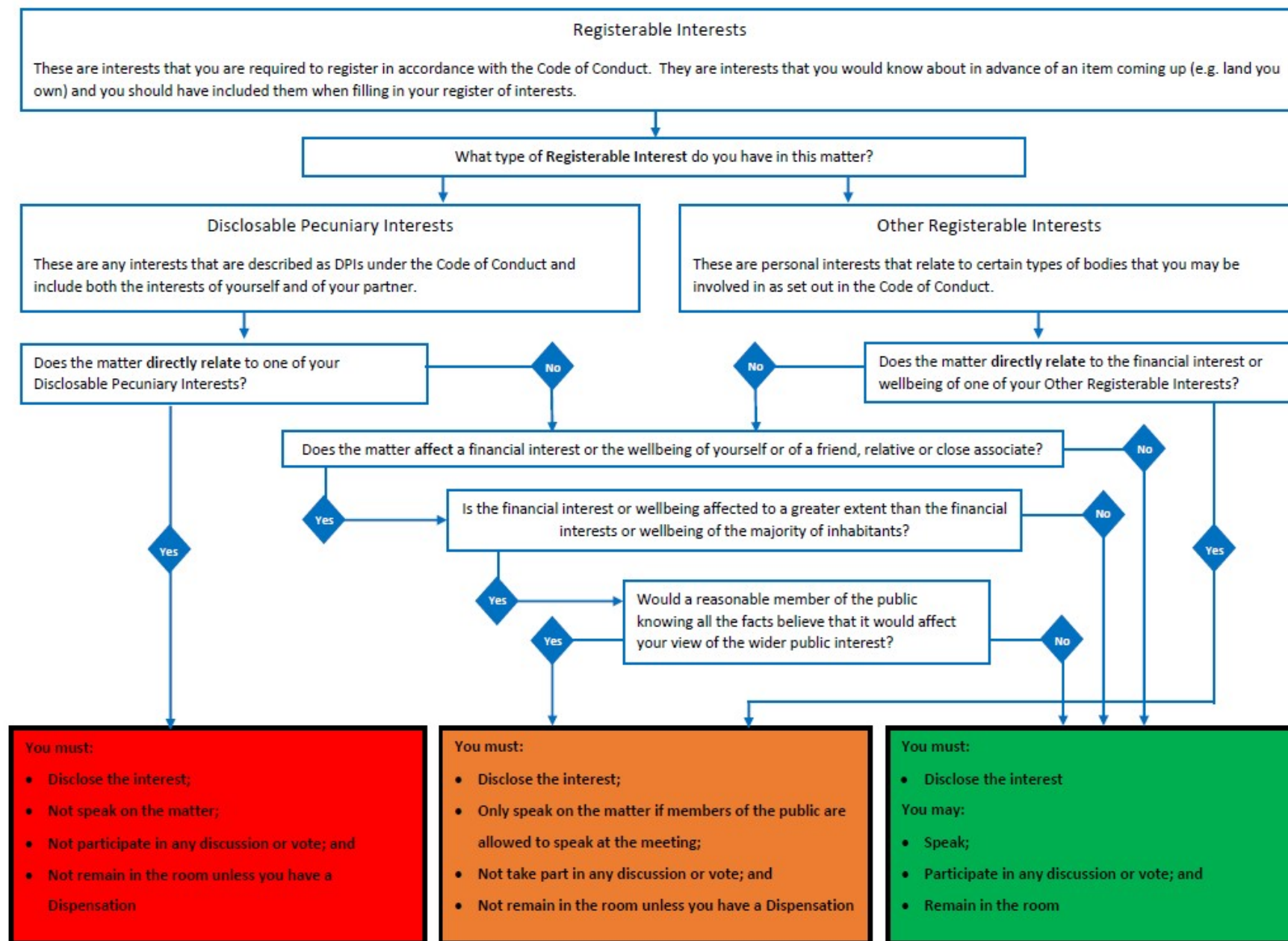
##### **Action to be taken**

- **you must notify** the Monitoring Officer of the interest and
- **you must not** take any steps or further steps in the matter apart from arranging for someone else to deal with it.

4.1.2. Where you have a personal interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your Executive function (i.e. single-Member-decision-making) and the interest is a Non-Registrable Interest that falls under paragraph 3.3.4,

##### **Action to be taken**

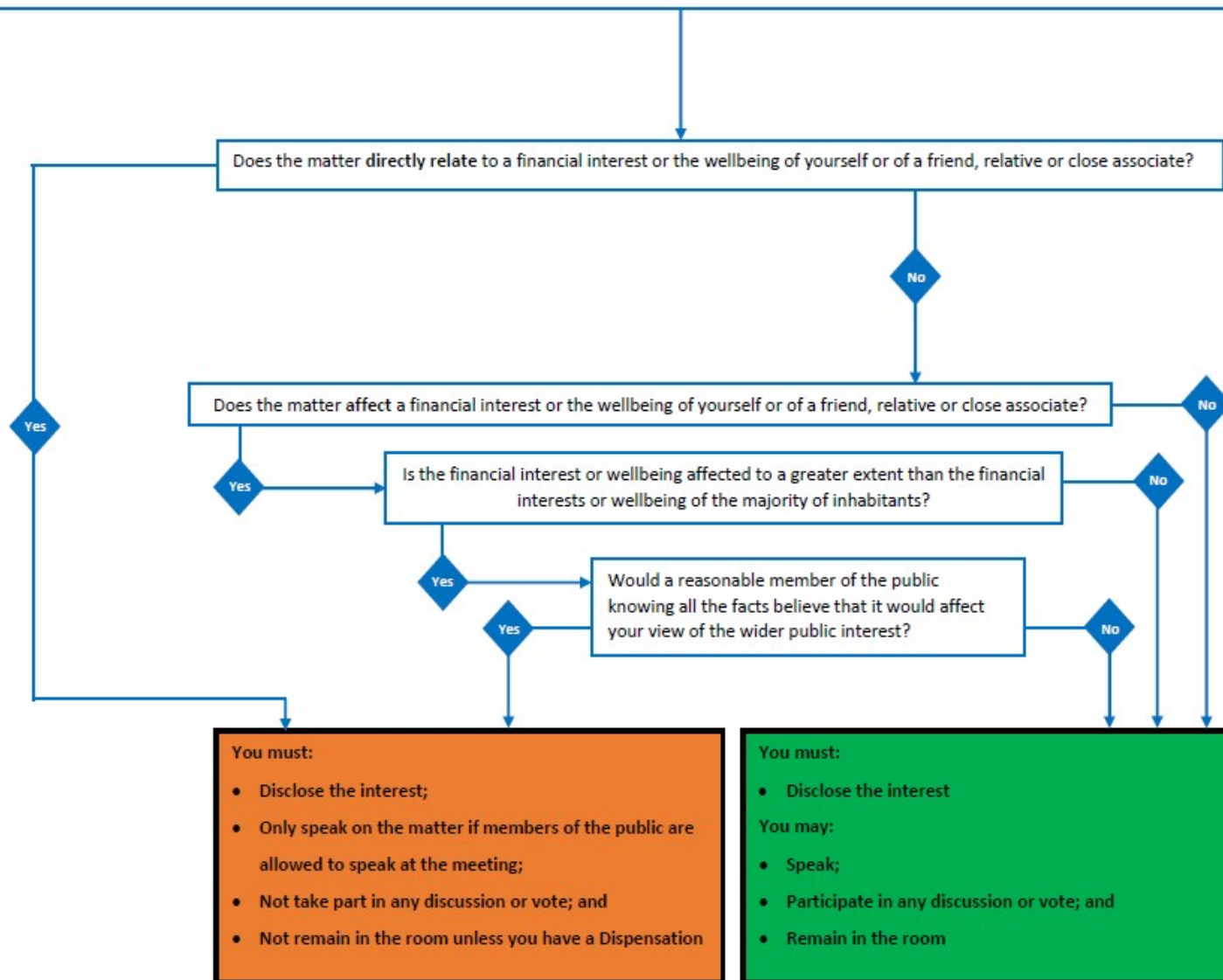
- **you must** make sure that any written statement of that decision records the existence and nature of your interest.





## Non-Registerable Interests

These are interests that you are not required to register but may become relevant when a particular item arises. These are usually interests that relate to other people you are connected with (e.g. friends, relatives or close associates) but can include your own interests where you would not have been expected to register them.



# **Broxtowe Borough Council Constitution**

## **Chapter 5 – Part 2**

### **Officer Code of Conduct**

**Chapter 5 Part 2: Officers Code of Conduct**

1. Introduction .....  
2. Standards.....  
3. Disclosure Of Information.....  
4. Political Neutrality.....  
5. Relationships .....  
6. Appointment And Other Employment Matters .....  
7. Outside Commitments.....  
8. Personal Interest.....  
9. Equality Issues.....  
10. Separation Of Roles During Tendering.....  
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12. Use Of Resources.....  
13. Hospitality And Gifts.....  
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## **EMPLOYEE CODE OF CONDUCT**

### **1. INTRODUCTION**

The Council believes that its activities demand the highest standards of confidence from the public and that this confidence will derive from the way in which the Council and its employees conduct themselves in undertaking its business. Indeed, public confidence in the integrity of both the Council and the individual would be shaken were the least suspicion, however ill-founded, to arise that there could be, in any way, an influence from improper motives.

It is, therefore, important for the Council to provide guidance on standards of conduct which applies to, is available to, and understood by employees at all levels, and this Code of Conduct has been prepared accordingly.

The Code supplements statements and requirements contained within Codes of Conduct for Professional Bodies, the National and Local Schemes of Conditions of Service, the Council's Procedure Rules and Financial Regulations and any departmental rules of conduct that may be issued from time to time by Chief Officers. Copies of these documents are available via normal departmental management channels.

Whilst the Code is reasonably comprehensive, it is not possible to address every possible circumstance, and simply because a particular action may not be addressed within the Code, this does not condone that action by omission. It is also expected that all employees will behave within the law whilst undertaking their official duties. This Code is incorporated into, and forms part of the contractual relationship between the Council and its employees. As such, it is admissible in evidence in any proceedings under the Council's disciplinary and grievance procedures. Chief Officers are required to report to the Chief Executive to comply with this Code, whilst the Chief Executive must report to the Monitoring Officer.

### **2. STANDARDS**

All employees are expected to give the highest possible standard of service and, where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality. The Council strives to maintain a high level of service and any deficiency, impropriety or breach of procedure must be reported to the manager. If, for any reason, employees do not feel able to talk directly to their manager or Chief Officer, they may talk to the Human Resources Division of the Chief Executive's office and they will assist in deciding the most appropriate action to take. This may involve identifying the concern to the Monitoring Officer as the Council's Monitoring Officer. In accordance with Financial Regulations, if an irregularity occurs, or is suspected, which may involve financial loss, it must be reported immediately to the Chief Officer and Deputy Chief Executive.

Employees should be aware that any impropriety or breach of procedure may result in disciplinary action being taken.

#### Dress and Personal Appearance at Work

Employees are reminded that standards of dress, wearing of corporate and protective clothing, personal appearance and hygiene, including standards required in the interests of health and safety, can be matters affecting public confidence and they should therefore make themselves aware of, and adhere to, the expected standards for their particular employment.

### 3. DISCLOSURE OF INFORMATION

The Code of Conduct is based on the assumption that open government is best. The law requires that certain types of information must be available to Councillors, members of the public, auditors, government departments, service users relating to the Council while the Council itself has decided to open other types of information. Employees must respect confidential information of which they are or should be aware.

Employees should make themselves aware of which information they come into contact with in the course of their employment is open and which is not and act accordingly. All information contained in personal data relating to members of the public and employees must be obtained, held and processed fairly and lawfully in accordance with the purposes of the Data Protection Act 1988 and must not be used or disclosed in any manner incompatible with that Act.

Employees must not use any restricted or confidential information obtained in the course of their employment for personal gain or benefit, nor pass it on to others who might use it in such a way.

Any restricted information received by an employee that is personal must not be divulged by that employee without prior approval, except where such disclosure is required or sanctioned by the law.

### 4. POLITICAL NEUTRALITY

Employees serve the Council, not just the controlling group. They must ensure that the individual rights of all Councillors are respected. Employees must give advice which does not compromise their political neutrality.

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.

Employees must not be involved in advising any political group of the Council or attend any group meetings in an official capacity without the consent of their Chief Officer.

## 5. RELATIONSHIPS

### 5.1 Councillors

Employees are responsible to the Council through its senior managers. For some, their role is to give advice to Councillors and senior managers and all are there to carry out the Authority's work. Mutual respect between employees and Councillors is essential to good local government. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors and should therefore be avoided.

### 5.2 The Local Community and Service Users

Employees must always remember their responsibilities to the community of Broxtowe and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Council. Employees must also be careful that any relationship that they have with any other person cannot bring the Council into disrepute. In particular, no employee may act in a regulatory or inspection capacity in respect of any matter in which they have an interest.

Employees are obliged to declare their interest in their relationship or their activities as soon as it becomes apparent that there may be an involvement or conflict with the Council's own interests.

### 5.3 Contractors

Orders and contracts must be awarded on merit by fair competition, in accordance with the Council's Procedure Rules and Financial Regulations, and no favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process.

Employees who engage or supervise contractors or have any other official relationships with contractors and have previously had or currently have a relationship in a business, private or domestic capacity with contractors or potential contractors, must declare that relationship in writing to their Chief Officer and also to the Monitoring Officer for recording in the Register of Interests.

Employees in their official relationships with contractors and potential contractors must not conduct themselves in such a manner so as to convey that they are in a position of giving favour, or in their dealings conduct themselves so as to directly or indirectly canvass or infer that they seek gift, loan, fee, reward or advantage, or any offer of such. In addition, section 117 of the Local Government Act 1972 requires Officers to notify the Council of any contract with the Council in which they have a direct or indirect pecuniary interest. It also provides that an Officer

may not under colour of their employment accept any fee or reward. Breach of those requirements is a criminal offence.

## 6. APPOINTMENT AND OTHER EMPLOYMENT MATTERS

Employees involved in appointment and promotions must ensure that these are made on the basis of merit. It would be improper for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees must not be involved in an appointment where they are related to an applicant, or have a close relationship outside work with them, or seek to influence an appointment or promotion for any purpose.

Similarly, employees must not be involved in decisions relating to discipline, promotion or pay adjustments for any employee who is a relative or partner.

## 7. OUTSIDE COMMITMENTS

All employees must be clear about their contractual obligations and should not engage in any other business or take outside employment which conflicts with the Council's interests, for example, working with or for someone who does business or seeks to do business with the Council or obtain grants, consents or permits from the Council. If in doubt, the employee must consult their manager.

The Council will not attempt to preclude any of its employees from engaging in any other business or from undertaking additional employment but any such employment must not, in the Council's view, conflict with or react detrimentally to the Authority's interests, or in any way weaken public confidence in the conduct of the Authority's business.

## 8. PERSONAL INTEREST

Employees must declare in writing to their Chief Officer any financial or non-financial interest that they consider could bring about conflict with the Authority's interests, for example, personal friendship or association, membership of any club or society that seeks assistance from the Council. A register of financial and non-financial interests is maintained by the Monitoring Officer and all employees must ensure that the nature of the conflict of interests is recorded in that register.

Employees must declare in writing to the Chief Officer and Monitoring Officer, 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.

Generally, any invention, intellectual property or copyright which is created in the course of employment will belong to the Council.

## 9. EQUALITY ISSUES

### 9.1 General

All employees must ensure that Council policies relating to equality issues are complied with, in addition to the requirements of the law. It is the responsibility of each employee to assist in the creation of a work environment where discriminatory behaviour is not tolerated.

### 9.2 Harassment

The Council believes in equality and social justice and wishes to make it clear that it will not tolerate any harassment, intimidation, unfair discrimination or victimisation, by or against employees, who should not be asked to suffer such behaviour.

Sexual and racial harassment is unlawful, and the Council has resolved to eliminate these forms, and all other forms of unacceptable behaviour in order to enable all employees to work in any part of the Council. Each employee has a duty to ensure that the standard of conduct for themselves and for colleagues respects the dignity of others and does not cause offence. Employees must therefore act in such ways as to avoid all forms of unacceptable behaviour in relation to other employees, clients and customers of the Council.

If an employee wishes to complain of any such activity they should contact the Chief Officer and the Human Resources Division of the Chief Executive's office which will investigate the complaint and take appropriate action.

Allegations of harassment will be dealt with sensitively, expeditiously and confidentially. Complainants will be protected against victimisation and retaliation (see section 17.13).

## 10. SEPARATION OF ROLES DURING TENDERING

Employees must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

Employees who are privy to confidential information on tenders or costs for either internal or external contractors must not disclose that information to any unauthorised party or organisation.

Employees must ensure that no favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

## 11. CORRUPTION



Employees must be aware that it is a serious criminal offence for them corruptly 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. Employees must advise their Chief Officer at the earliest opportunity of any such approach which is made to them.

12. USE OF RESOURCES

The Council expects its employees to devote their full working day to the business of the Council. An employee must not engage in personal business during a working day.

It is acceptable for employees to use the Council's resources, to a limited extent, provided that the Council is reimbursed for any additional cost involved and also provided that prior approval is obtained from the employee's manager.

13. HOSPITALITY AND GIFTS

Each employee is personally responsible for the initial decision concerning the propriety of hospitality or gifts. Employees may accept offers of modest hospitality or gifts appropriate to the occasion and provided it is normal and reasonable in the circumstances. If there is any suggestion that improper motives may be construed they must be refused or employees must seek advice from a more senior member of management or the Chief Officer. There is no requirement to declare any gift or hospitality below the value of £25. Offers to attend purely social or sporting functions may be accepted when these are part of the life of the community or where the Council should be seen to be represented. All hospitality and gifts received personally (other than general token items, pens, diaries, etc) must be declared to the Monitoring Officer, who will note it in a register kept for that purpose.

When receiving authorised hospitality and gifts, employees must be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality or gifts.

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.

14. SPONSORSHIP - GIVING AND RECEIVING

Where an outside organisation wishes to sponsor or is seeking to sponsor a Council 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 a contractor or potential contractor.

Where the Council wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct

way without there being full disclosure to the appropriate manager of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees must ensure that impartial advice is given and that there is no conflict of interest involved.

15. PUBLIC SPEAKING

Where employees are invited to address public meetings, undertake radio or television interviews, etc, it is expected that they must clearly understand the basis upon which the invitation was extended. In the majority of cases, an employee will be acting as the representative of the Council, and as such must communicate the policies and procedures of the Council in a factual and unbiased way. Employees must avoid expressing personal views in such situations, and if during the course of the debate or discussion the personal views of the Officer are sought, then they must consider most carefully whether this would place them in a position of public conflict with their employer. It may be appropriate in such circumstances for the Officer to decline to make further comment and terminate the discussion or interview. It is of course recognised that employees are entitled to personal views, and that these may be very strongly felt. Where these personal views are given they must be stated as personal.

16. EMPLOYEES FACING CRIMINAL CHARGES

The Council expects employees facing criminal charges or regulatory action to give notice of such, without delay, to their Chief Officer. Sometimes the nature of the charges or action will be relevant to the employee's job, in other cases the issue will be less clear cut. Employees are aware that their own personal actions can reflect on the Council as a whole. They are required therefore to notify their Chief Officer of any criminal charge or regulatory action which may be pending, whether they personally feel the matter is relevant or not, and the outcome of any such charge. Discussion with the employee will take place as to the extent to which such a charge reflects upon the ability of the employee to perform effectively, or the extent to which the Council's own interests are prejudiced.

## EMPLOYEES' REGISTER OF INTERESTS AND DISCLOSURES

As a general principle, employees should err on the side of caution and declare interests that they think may be covered. Assistance can be sought from the Head of Service in first instance or the Monitoring Officer if any clarification is required.

NAME	DIRECTORATE	DATE

INTEREST		DETAILS
1.	Companies & Securities e.g. where you or a close relative or friend has a significant shareholding of a company or is actively involved in running a company which might do business with the Authority.	
2.	Contracts e.g. where you or a close relative or friend intends to bid for a contract to be let by the Authority	
3.	Land or Property in the Authority area e.g. where you or a close relative or friend owns property in which the Authority has an interest or is subject to an application or regulatory action by the Authority	
4.	Intent to bid for land or property owned by the Authority	
5.	Sponsorship or Grants e.g. where you or a close relative or friend is involved with an organisation applies to the Authority for a grant.	
6.	Others (please specify)	

### Declaration

I declare that the information provided is accurate to the best of my knowledge and belief.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Upon completion forward this form to Monitoring Officer.

This form will be retained for 7 years.

**Broxtowe Borough Council**  
**Declaration of Gifts and Hospitality Form**

All staff should conduct themselves with integrity, impartiality and honesty at all times and should maintain high standards of propriety and professionalism. Staff should consider carefully if the acceptance of a gift or hospitality would be viewed as compromising these values.

Details of employee receiving gift or hospitality

First name	
Surname	
Job Title	
Department / Section	
Email Address	
Date of Declaration	

Description of gift or hospitality

Description of gift / hospitality	
Value / estimated value of gift / hospitality	
Purpose of the offer	
Person / organisation providing the gift or hospitality	
Relationship (or future relationship) to the person / organisation offering the gift or hospitality	
Acceptance of gift / hospitality	Yes / No

Retention period

Date added to register	
Date for removal from register	

Upon completion forward this form to Monitoring Officer. This form will be retained for 7 years.

# **Broxtowe Borough Council Constitution**

## **Chapter 5 – Part 4**

### **Protocol for Councillor/Officer Relations**

# **Broxtowe Borough Council Constitution**

**Chapter 5 Part 4:**

**Protocol for Councillor/Officer Relations**

**Protocol On Councillor/Officer Relation**

- 1. Introduction .....
- 2. Roles of Councillors and Officers .....
- 3. Expectations .....
- 4. Political Groups.....
- 5. When Things Go Wrong.....

## **PROTOCOL ON COUNCILLOR/OFFICER RELATIONS**

### **1. INTRODUCTION**

- 1.1 This protocol is intended to assist Councillors and Officers in approaching many of the sensitive circumstances which arise in a challenging working environment.
- 1.2 The integrity of the Council is significantly influenced by the effectiveness of Councillors and Officers working together to support each other's roles. The pursuit of rapport, trust and collaboration is an elusive and continuing challenge for each Councillor and Officer. These conventions are intended to be an important support to that process.
- 1.3 The aim is to produce effective professional working relationships between Members and Officers. Members are offered appropriate resources and in particular I.T. equipment, by the Council and are encouraged to make full use of such resources and especially in order to maintain efficient contact with each other and with Officers. Close personal familiarity between individual Members and Officers is to be avoided, since this distorts the productive, professional relationship, which is characterised by mutual trust, respect and courtesy.

### **2. ROLES OF COUNCILLORS AND OFFICERS**

- 2.1 The respective roles of Councillors and Officers can be summarised as follows:

*Councillors and Officers are servants of the public and they are indispensable to one and other, 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 to the authority, and to carry out the authority's work under the direction and control of the Council, the Executive and relevant Committees.*

*Mutual respect between Councillors and Officers is essential to good local government.*

- 2.2 Councillors

Councillors have four main areas of responsibility:

- (a) determining the policy of the authority and giving it political leadership,
- (b) monitoring and reviewing the performance of the authority in implementing that policy and delivering services,
- (c) representing the authority externally, and



- (d) acting as advocates on behalf of their constituents.

It is not the role of Councillors to involve themselves in the day to day management of the authority's services.

### 2.3 Members of the Executive, Chairs and Vice Chairs

Members of the Executive and Chairs and Vice Chairs of Committees have additional responsibilities. Because of those responsibilities, their relationships with employees may differ from, and be more complex than, those of Councillors without those responsibilities, and this is recognised in the expectations they are entitled to have. However, such Councillors must still respect the impartiality of Officers, must not ask them to undertake work of a party political nature, or to do anything which would put them in difficulty in the event of a change in the political composition of the authority.

### 2.4 Opposition Councillors

As individual Councillors, all Councillors have the same rights and obligations in their relationship with Officers and should be treated equally. This principle is particularly important in the context of Scrutiny and Overview. However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between Officers, particularly those at a senior level in the organisation, and the administration will differ from that with opposition groups.

### 2.5 Officers

The role of Officers is to give advice and information to Councillors and to implement the policies determined by the authority.

In giving such advice to Councillors, and in preparing and presenting reports, it is the responsibility of the Officer to express their own professional views and recommendations. Whilst an Officer may report the views of individual Councillors on an issue, if the Councillor wishes to express a contrary view they should not seek to pressure the Officer to make a recommendation contrary to the Officer's professional view.

Certain Officers: the Head of Paid Service, Monitoring Officer and Section 151 Officer have responsibilities in law over and above their obligations to the Authority and to individual Councillors, and Councillors must respect these obligations, must not obstruct Officers in the discharge of these responsibilities, and must not victimise Officers for discharging these responsibilities.

## 3. **EXPECTATIONS**

### 3.1 Councillors can expect from officers:

- (a) a commitment to the Authority as a whole, and not to any political group

- (b) a working partnership
- (c) an understanding of and support of respective roles, workloads and pressures
- (d) timely response to enquiries and complaints
- (e) professional advice, not influenced by political views or preference, which does not compromise the political neutrality of Officers
- (f) regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold
- (g) awareness of and sensitivity to the political environment
- (h) respect and courtesy
- (i) training and development in order to carry out their role effectively
- (j) integrity, mutual support and appropriate confidentiality
- (k) not to have personal issues raised with them by Officers outside the agreed procedures
- (l) that employees will not use their relationship with councillors to advance their personal interests or to influence decisions improperly
- (m) that officers will at all times comply with the relevant Code of Conduct
- (n) support for the role of Councillors as the local government representatives of the authority, within any scheme of support for Councillors which may be approved by the Authority.

### 3.2 Officers can expect from councillors:

- (a) a working partnership
- (b) an understanding of and support for respective roles, workloads and pressures
- (c) political leadership and direction
- (d) respect and courtesy
- (e) integrity, mutual support and appropriate confidentiality
- (f) not to be subject to bullying or to be put under undue pressure. Councillors should have regard to the seniority of Officers in determining what are reasonable requests, having regard to the power relationship between

Councillors and Officers, and the potential vulnerability of Officers, particularly at junior levels

- (g) that Councillors will not use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly
- (h) that Councillors will at all times comply with the relevant Code of Conduct.

### 3.3 Limitations upon Behaviour

The distinct roles of Councillors and Officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- (a) Close personal relationships between Councillors and Officers can confuse these separate roles and get in the way of the proper discharge of the authority's functions, not least in creating the perception in others that a particular Councillor or officer may secure advantageous treatment.
- (b) The need to maintain the separate roles means that there are limits to the matters on which they may seek the advice of Officers, both in relation to personal matters and party political issues.
- (c) Relationships with particular individuals or party groups should not be such as to create public suspicion that an employee favours that Councillor or group above others. The issue of Officer attendance and advice to political groups is specifically covered below.

## 4. **POLITICAL GROUPS**

4.1 The operation of political groups is now an integral feature of local government, and such political groups have an important part to play in the development of policy and the political management of the authority. It is in the interests of the authority to support the effective operation of political groups, but their operation can pose particular dangers in terms of the impartiality of Officers.

### 4.2 Reports:

- (a) Political groups may request the Chief Executive to prepare written reports on matters relating to the authority for consideration by the group.
- (b) Officer reports to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the Authority. Reports will not deal with any political implications of the matter or any option, and Officers will not make any recommendation to a political group.
- (c) Where a report is prepared for a political group, the Chief Executive will advise all other groups that a report has been prepared and the topic of the report.

#### 4.3 Officer Attendance

- (a) Any political group may request the Chief Executive to attend a meeting of the group to advise on any particular matter relating to the authority.
- (b) The Chief Executive may arrange for the attendance of a representative in their stead, or may decline to attend or to provide a representative where they are of the opinion that the particular issue is of such a political nature that it would be inappropriate to attend.
- (c) Officers' advice to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Advice will not deal with any political implications of the matter or any option, and Officers will not make any recommendation to a political group.
- (d) Where an Officer attends a political group, the Chief Executive will advise all other groups that the Officer has attended and the subject upon which they have advised.

- 4.4 Where correspondence from an Officer to a Member is copied to another person, the addressee of the letter will be made aware that a copy is being forwarded to that other person.

### 5. **WHEN THINGS GO WRONG**

#### 5.1 Procedure for Officers

From time to time the relationship between Councillors and Officers may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or Councillors, Officers will have recourse to the Grievance Procedure or to the Council's Monitoring Officer, as appropriate to the circumstances. In the event of a grievance or complaint being upheld, the matter will be referred to the Chief Executive, who, having advised the Leader of the Council and the appropriate group Leader will decide on the course of action to be taken.

#### 5.2 Procedure for Councillors

In the event that a Councillor is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the appropriate Director. Where the Officer concerned is a Director, the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive, the matter should be raised with the Head of Human Resources. If the matter cannot be resolved informally, it may be necessary to invoke the Council's disciplinary procedure.

# **Broxtowe Borough Council Constitution**

## **Chapter 5 – Part 3**

### **Good Practice**

## Chapter 5 Part 3: GOOD PRACTICE

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## **PROBITY IN PLANNING:**

### 1. CODE OF GOOD PRACTICE FOR THE PLANNING SERVICE

This code of good practice will guide Officers and Members of the Council in dealing with planning matters and will inform local residents and potential developers as to the procedures which will apply. **(Paragraphs in bold type are intended to form the Code)**

This code draws on the document entitled "Probity in planning for Councillors and Officers produced jointly by the Local Government Association (LGA) and the Planning Advisory Service (PAS).

#### 1.1 The general role of Members and Officers

It is essential that all Members and Officers act in a way which is fair and impartial and which is clearly seen to be so. Members and Officers should take account of all opinions which are expressed. They should act in the interests of the whole Borough rather than any partisan interest.

Members and Officers should take decisions in the interests of the whole Borough and should act impartially towards each person, company, group and locality.

#### 1.2 Gifts and hospitality

Members and Officers may occasionally be offered gifts or hospitality by an applicant, a potential applicant or an agent. It is very important that there should be no prospect of charges of impropriety being levelled against the Council or any particular individual.

Members and Officers should abide by the Council's Code on Gifts and Hospitality.

#### 1.3 Discussions with applicants, potential applicants and agents

The Council recognises the value of pre-application discussions between an applicant and the Council. The pre-application process that the authority has in place is designed to ensure that local knowledge and expertise is fed in to the planning process at an early stage and that the authority complies with paragraphs 186 and 187 of the National Planning Policy Framework in engaging positively with applicants.

The authority also recognises that involving Councillors early can help to identify issues, lead on community issues and ensure that all issues are addressed in an open and transparent way. This accords with the 'no shocks' approach recommended by PAS.

The ability of Members to be involved has, to an extent, been strengthened by section 25 of the Localism Act. This section of the Localism Act does not however mean that the process will not be adversely affected by perception and this Code addresses those issues to ensure transparency throughout the process.

At the start of any meeting it will be made clear that any discussion will not bind the Council to making a particular decision and any views expressed are personal and provisional.

Officers will be present with Councillors in pre-application meetings with the applicant.

A written note will be made of all meetings by the Officer in attendance. These notes will contain the issues raised and advice given and will be placed on the planning file. If any confidential discussions are required, then the note will clearly be marked as confidential.

All advice will be impartial and will not advocate a particular position. This will not prevent Officers from expressing a provisional view on whether or not they would consider a proposal to be in accordance with the development plan and other material considerations.

It is recognised that it is impossible to record each and every discussion that a Councillor may have with constituents on planning matters. Members will exercise their discretion on such discussions and notify the Head of Planning and Economic Development when they consider that any meeting or discussion should be recorded on the planning file. When making such decisions Members will have regard to this Code.

#### 1.4 Public involvement

To assist the issue of probity it is essential that members of the public are as fully involved as possible in the Planning process, in accordance with clear guidelines. Applications are therefore the subject of publicity in accordance with the Council's publicity policy. The current policy forms the appendix to this Code, which may be amended from time to time by the Planning Committee.

Public consultation on all planning applications should be carried out in accordance with the Council's Publicity Policy.

#### 1.5 Reports

Comprehensive, accurate and impartial reports ensure adequate consideration of the issues, help to enable consistent decision-making and provide a sound basis for Members to decide whether or not to agree with the Officers' recommendations.

Officers' reports represent the professional views of the Head of Service and should cover relevant national and local policies, the substance of any objections and the views of those consulted.

Members will recognise the need for Officers' impartial advice and will not seek to compromise the impartiality of Officers.



Comments received after the preparation of the Committee agenda will be summarised verbally or through the late items report at the meeting.

#### 1.6 Interests

Local requirements in respect of Members' interests are set out in full in the Council's Code of Conduct and the various kinds of interest are defined in detail in that document.

Members will comply with the Code of Conduct for Councillors in respect of interests.

Officers will comply with the Code of Conduct for Employees in respect of interests.

#### 1.7 Lobbying

Members of the public (and the Ombudsman) expect that planning issues will be considered in an open and fair manner in which Members making the decision will take account of all the facts and arguments presented before arriving at a decision. If Members committed themselves one way or the other before hearing all the facts and arguments, and in particular before reading the Officer's report, they would risk making themselves vulnerable to an accusation of partiality. If they then took part in the discussion and voted, they would risk the possibility of judicial review of the decision or a finding of maladministration. Members for a Ward to which a proposal relates have a duty to be active local representatives and they may therefore, in accordance with the Council's constitution, take part in the discussion, although not vote.

Members who respond to lobbying by expressing unqualified support or opposition in respect of an issue in advance of reading the Officer's report for the relevant Committee meeting should not vote on the issue and, except for Ward Members, should not take part in the discussion, so avoiding any risk of judicial review.

Members will declare any lobbying at the start of the meeting.

#### 1.8 Committee site visits

It is important that site visits are seen to be fair to all parties and Members will be accompanied by Officers. Representations will not be heard during the visits, as these are covered in the Officers' reports, however the applicant/agent or objectors may point out particular features or ask Members to view the site from particular viewpoints.

At the start of any site visit it will be made clear to all in attendance that the site visit is not an opportunity for lobbying.

Site visits may be held if they are likely to be of benefit to the decision-making process.

The purpose of the visits should be for Members to see the site and not to hear additional representations.

## 1.9 Decision Making

If Members were to take a firm view on a planning matter before the decision-making meeting, they would not be able to demonstrate that, in participating in a decision, all the relevant facts and arguments had been taken into account. They would have fettered their discretion and might therefore place the Council in danger of judicial review or a finding of maladministration.

Detailed minutes will help to confirm that the reasons for decisions which are contrary to Officers' recommendations and to established policy are clear and convincing, as required by the courts, and they will therefore help to avoid any risk of judicial review.

It is quite legitimate for Members, Officers or the Council itself to submit proposals and for them to seek to explain and justify their proposals to an Officer before consideration by Committee, however such applications can easily give rise to suspicions of impropriety and it is therefore vital to ensure that they are handled in a way that gives no grounds for accusations of favouritism.

Members and Officers taking decisions on behalf of the Council should reach their own conclusions on the issues and act in accordance with those conclusions, only after carefully weighing all relevant facts and arguments.

Members should draw conclusions only after considering Officers' reports.

Detailed reasons should be given of any Committee decisions which are contrary to officers' recommendations or to established policy.

When Members wish to add to or amend an Officer recommendation, an Officer should draft any such amendment taking into account the reasons given by Members. If necessary, the meeting should be adjourned to enable the Officers to compile the reasons (and any conditions) for permission or refusal, or to take appropriate advice.

Members or Officers who pursue planning matters on their own behalf or as agents should play no part in the decision-making process, nor should they lobby fellow Councillors.

Proposals which involve Members or Officers who are involved in the planning process\* should be reported to Committee and the Council's Monitoring Officer should be informed of them.

Proposals for the Council's own development should be reported to Committee and should be treated in the same way as those of private developers.

\* Officers involved in the planning process who are Chief Officers, Heads of Service and employees of the planning and building control sections.

#### 1.10 Access to information

The Council will aim to give broad access to planning files.

Planning application files will be available for public inspection to the extent that they contain information which the Council is legally entitled to disclose.

Certain information may be subject to rules of confidentiality or copyright. The Monitoring Officer and the Head of Planning and Economic Development will, in case of doubt, determine whether particular documents should be disclosed.

#### 1.11 Enforcement

It is important that Members of the public do not feel at risk of intimidation by people who may be breaching planning control. Enforcement files will not therefore be open to public inspection unless required to be under relevant legislation. They would however be available if an appeal is lodged or through prosecution, or to the Ombudsman in the event of a complaint.

Unless otherwise required by law, files relating to enforcement issues will not be open to public inspection and, wherever possible, the names of complainants will not be revealed in order that Members of the public need not be inhibited from drawing the Council's attention to possible breaches of planning control.

#### 1.12 Training and updating for Members

Planning legislation, guidance and procedures can be complex and therefore training and updating is essential for Members serving on Planning Committees. Some basic training on the planning process is also valuable for all members. Updating will normally involve reports to the Planning Committee. Training and updating may also take the form of seminars.

Members involved in the planning service should receive training before serving on Planning Committee and should be updated regularly on changes in legislation, policy guidance or procedures.

#### 1.13 Monitoring the quality of decisions

The planning service aims to ensure that quality development takes place in appropriate locations and that unsuitable development is prevented. In order to ensure that these aims are met, it is necessary to assess the quality of developments which take place and the quality of the decisions which led to them. If the developments are unsatisfactory in some way, it may indicate a need for changes in the Council's policies or practices. Monitoring should help to improve the quality and consistency of decision-making, so strengthening public confidence in the planning system.

Officers should review annually a representative sample of implemented planning permissions in order to assess the quality of the decisions and advise members whether there is a need to reconsider any policies or practices.

#### 1.14 Complaints

Any complaint received in writing about the way a planning matter has been dealt with, in terms of procedures or fairness, will be looked into fully. A disagreement with a decision will not in itself lead to investigation, however officers will explain the reasons for the decision.

Any written complaints regarding the way in which a planning decision has been reached will be investigated under the Council's Complaint Procedure.

## 2. **PUBLICITY POLICY**

### 1. Major Development

For applications falling within the "major developments" category, the Council will advertise the application in a local newspaper, by neighbour notification and with a site notice.

Major development includes :

- (a) 10 or more dwellings or, if this is not known, where the site is 0.5 hectares or more; and
- (b) for all other uses, where the floorspace to be created is 1000 square metres or more, or the site area is 1 hectare or more.

### 2. Minor Development

**Minor development is all development which does not fall within the major development category above.**

The Council will undertake neighbour notification as specified in section 8 below and, if the development falls within any of the defined categories at sections 3-7, will undertake further publicity as stated.

### 3. Applications accompanied by an Environmental Assessment

The Council will advertise the application in a local newspaper, by means of a site notice and by neighbour notification.

4. Departures from the Development Plan

Where an application proposes development which materially departs from the provisions of the development plan, then the Council will advertise the application in a local newspaper, by means of a site notice and by neighbour notification.

5. Listed Buildings and development within Conservation Areas

The Council will advertise applications for listed building consent and for developments in conservation areas which would affect the character or appearance of the area in a local newspaper, by means of a site notice and by neighbour notification.

6. Changes of Use to A3, A4 and A5 Uses (food and drink)

A3, A4 and A5 uses may be associated with additional noise, smells and general disturbance in the locality. In such cases, the Council will display a site notice and undertake neighbour notification.

7. Applications for new dwellings

Where new dwellings are proposed, particularly on infill plots, additional publicity is undertaken. The Council will display a site notice and undertake neighbour notification.

8. Neighbour notification

Neighbour notification occurs by means of a letter sent to the occupier of all buildings or land which directly abut the application site as identified by the red line on an application. Where the ownership of unoccupied land is uncertain or cannot be identified from the Ordnance Survey plan, a site notice will be displayed. Neighbours are given 21 days from the date of a notification letter in which to comment on applications.

Neighbours are also sent further letters if an application is materially amended prior to a decision. The period for making further representations would normally be 7 days from the date of the letter.

9. Site notices

Site notices are A4 sized and brightly coloured to increase their visibility. Site notices are attached to a lamppost or similar structure as close as possible to the application site.

If the Council becomes aware that a site notice has been removed before the expiration of the consultation period, it will display a replacement notice for the remaining period of the consultation.

If a site notice is displayed, then a revised site notice (of a different colour) will be displayed to advertise the receipt of amended plans.

10. Minor amendments

Following the approval of a planning application, applicants sometimes wish to amend their proposals. Such amendments can only be dealt with if they are de minimis.

3. **GUIDANCE FOR MEMBERS ON HOSPITALITY AND GIFTS**

1. Introduction

This guidance is ancillary to the requirements of the Members' Code of Conduct. The Code governs the ethical standards required of Members. Specifically, it seeks to ensure that the public role of Members is not prejudiced by inappropriate behaviour or association. Members may be offered gifts or hospitality and it is important that such offers are considered critically. This guidance is written to assist in determining how to respond to such offers.

2. Principles

- 2.1 People or bodies may have on going contractual relationships with the Council. Equally, people or bodies may need planning permission or other consent from the Council to conduct their affairs. They could seek to secure a sympathetic response from Council Members by the making of gifts. Equally, whether or not the intention to secure an advantage is present, an outsider might suspect that any improper advantage is being sought from a Member. It is essential that Members should give critical consideration to the offer of gifts or hospitality in that light.
- 2.2 There are few hard and fast rules governing the acceptance of gifts and hospitality. Clearly if the offer is corrupt, there are criminal implications. Members are required to disclose any gift or hospitality over the value of £25.00 to the Monitoring Officer (MO). They will notify the MO, in writing, of the existence and nature of that gift or hospitality within twenty-eight days of receiving it. Details will be entered in a register maintained by the MO which is open to public inspection.
- 2.3 Members are personally responsible for all decisions connected with the acceptance of gifts or hospitality and for avoiding the risk of damage to public confidence in the authority.
- 2.4 Members should therefore treat all offers of gifts or hospitality with caution, with a view to not only avoiding impropriety but also any suggestion of impropriety. Members should give the same consideration to offers made to members of their family or friends which could be viewed as securing an indirect benefit to themselves.

- 2.5 Although all offers should be treated with caution, there will be occasions where not to accept reasonable gifts or hospitality would prejudice the regular conduct of the Council's business or give offence to persons or bodies of significance to the Council. This is most obviously seen in the context of overseas civic twinning arrangements where courtesies demand the exchange of reasonable gifts and hospitality and special arrangements (detailed later) are in place. Equally, it is reasonable to expect business meetings to be accompanied by modest refreshment should the nature and duration of the meeting demand it. An example would be the provision of a working lunch.
- 2.6 It is important that the offer and receipt of gifts and hospitality takes place in an open manner. Such openness will serve to remove suspicion and provide accountability. It will also deter the making of inappropriate offers.

### 3. General Guidance

- \* Whether to accept the offer of a gift or hospitality should be considered in the light of the above principles.
- \* Members should never accept a gift or hospitality as an inducement or reward for taking any particular action.
- \* Members should never accept a gift or hospitality if acceptance may be open to misinterpretation by those offering the gift or hospitality.
- \* Members should never solicit a gift or hospitality.
- \* Receiving civic hospitality provided by another public authority is acceptable.
- \* Receiving tickets for sporting, cultural and entertainment events sponsored by the authority is acceptable.
- \* Members should declare the receipt of all offers to the MO whether or not the offer has been accepted. The MO will keep a register of the receipt of gifts and hospitality, i.e. over £25.00.
- \* Members should be particularly alert to any relationship that the person making the offer has to the Council, i.e. whether they have a contractual relationship with the Council or whether they are likely to require a favourable decision from the Council, e.g. a planning permission, a contract or a licence.
- \* It is acceptable to receive modest gifts on significant occasions, e.g. at Christmas, where not to do so would show a lack of courtesy. An example of such a gift might be a diary or a calendar. Acceptance of a gift or hospitality is more likely to be acceptable where that offer either has been or is likely to be reciprocated by the Council.
- \* Accepting modest refreshment to ease the working day is acceptable.

- \* It is the responsibility of each individual Member whether to accept such offers. If in doubt, advice is obtainable from the MO.

#### 4. Civic Gifts and Hospitality

- \* It is the responsibility of the Chief Executive to ensure that hospitality for civic events is proportionate to the occasion. A guiding principle in accepting or offering hospitality is whether it is reasonable to expect the hospitality to be reciprocated at a similar level.
- \* The presumption is that any gifts given to the Mayor or Deputy Mayor or Escort are gifts to the office of the Mayor and so belong to the Council. The Chief Executive is the final arbiter of whether such gifts belong to the Council or to the individual occupying the office of Mayor.
- \* The Chief Executive will maintain a record of all gifts to the office of Mayor. All gifts in excess of a value of £25 will be declared to the MO for entry in the register.

#### 4. **PUBLIC SPEAKING AT PLANNING COMMITTEE**

##### 1. Protocol

Members of the public who have written to the Council objecting/supporting an application, together with the applicant will be advised in writing 7 days prior to the meeting of their opportunity to speak at the committee.

Those wishing to speak at the Committee must register their desire by telephoning the Democratic Services Section on 0115 917 3522 by 12 noon one clear working day prior to the committee meeting.

Only one person objecting and the applicant or a supporter may speak. Professional representatives/agents will not be entitled to speak. Where an application affects a large area, additional speakers will be allowed, at the discretion of the Monitoring Officer and Head of Planning and Economic Development, if it is felt there is justification on the basis of a multiplicity of viewpoints and issues.

If more than one person wishes to speak in objection to a particular application then, subject to the above discretion, the person living closest, or most likely to be affected by the development, will be allowed to speak. Head of Planning and Economic Development and the Monitoring Officer will make that decision. Other people may be put in touch with the chosen person in order that they may co-ordinate the views of others.

The applicant or a supporter will only be permitted to speak on the application if either there is to be an objecting speaker or if the Officer recommendation is to refuse the application. A supporter may only speak if the applicant chooses not to. Following the



registration deadline, the people selected to speak will be notified by Democratic Services.

In the case of exceptional applications then the Head of Planning and Economic Development and Monitoring Officer may decide to vary these provisions to allow additional speakers to address the meeting.

People will be invited to speak after the Chair and relevant Officer have introduced the application and prior to the debate by Members.

Speakers will be limited to a maximum of 3 minutes each and may not otherwise participate in the Committee debate. The Chair will inform the speaker when there are 30 seconds remaining.

Speakers are only entitled to raise issues related to planning matters relevant to the particular application. Advice on non-planning matters will be provided on the explanatory leaflet and cannot be taken into account. The Chair will be entitled to stop the speaker if necessary. Advice can be obtained from the duty planner by telephoning 0115 917 7777.

Speakers are advised to avoid making derogatory or disparaging statements.

Speakers will not be able to ask direct questions of the Chair, Members of the Committee or Council Officers.

No visual aids will be permitted to supplement a presentation. The speaker may, however, refer to plans, photographs or other material already displayed at the meeting by the Council.

## **NOTES**

1. Any Member may refer an application to the Planning Committee for a decision. Such a Member may speak but not vote on the application, unless they are a Member of the Committee. Additionally, Ward Councillors also have the right to attend and speak but not to vote on an application for planning consent for a matter affecting their Ward. Speeches by Members who have referred an application to Committee and by Ward Members will be limited to five minutes' duration. Any Ward Councillor having spoken to the Committee will have the right to reply before the Committee votes."
2. It is expected that only one Ward Member will speak in support of an application and one against.
3. Any Member or Officer who is party to an application being considered by the Planning Committee may not avail themselves of the rights granted by this protocol because of the Codes of Conduct applicable to them and should not be present in the meeting during the consideration of their application.

**Broxtowe Borough Council**

**Declaration of Gifts and Hospitality Form**

All Councillors should conduct themselves with integrity, impartiality and honesty at all times and should maintain high standards of propriety and professionalism. Councillors should consider carefully if the acceptance of a gift or hospitality would be viewed as compromising these values.

**Details of Councillor receiving gift or hospitality**

First name	
Surname	
Job Title	
Department / Section	
Email Address	
Date of Declaration	

**Description of gift or hospitality**

Description of gift / hospitality	
Value / estimated value of gift / hospitality	
Purpose of the offer	
Person / organisation providing the gift or hospitality	
Relationship (or future relationship) to the person / organisation offering the gift or hospitality	
Acceptance of gift / hospitality	Yes / No

**Retention period**

Date added to register	
Date for removal from register	

Upon completion forward this form to the Monitoring Officer. This form will be retained for 7 years.



Broxtowe  
Borough  
COUNCIL

# **Broxtowe Borough Council Constitution**

## **Chapter 5 – Part 5**

### **Whistleblowing Charter**

**CHAPTER 5 Part 5: Whistleblowing Charter**

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## **WHISTLEBLOWING POLICY**

### **1. Introduction**

- 1.1 The Public Interest Disclosure Act became law in July 1999. The Act seeks to address circumstances which arise when employees have concerns about what is happening at work. It seeks to ensure that a whistleblower who makes a proper disclosure of relevant information does not thereby incur unfair treatment. This policy document sets out the Council's response to the requirements of the Act.

### **2. Detail**

- 2.1 Where such concerns arise, they are usually easily resolved. However, when they are perceived to be about unlawful conduct, financial malpractice or dangers to the public or the environment (see Section 4.2 for particular types of concerns), it can sometimes be difficult to know what to do.
- 2.2 You may be worried about raising issues or may want to keep the concerns to yourself, perhaps feeling that it's none of your business, or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or the organisation. You may decide to say something but find you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.
- 2.3 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment it is expected that employees of the Council and others with whom the Council deals who have serious concerns about any aspect of the Council's work, will come forward and voice these concerns. It is recognised that most disclosures will be undertaken on a confidential basis.
- 2.4 The Council has introduced this procedure to enable you, as an employee, to raise your concerns about perceived malpractice at an early stage and in the right way. The Council would rather that you raised the matter when it is just a concern rather than waiting for proof. Any amendments to this policy will be notified to employees.
- 2.5 If something is troubling you which you think should be known about or looked into, please use this procedure. This whistleblowing procedure is primarily for concerns where the interests of others or of the organisation itself are potentially at risk.
- 2.6 These procedures are in addition to and separate from the Council's complaints procedures including the grievance procedure and the harassment policy. If you are aggrieved about your personal position, please use the grievance procedure (which can be obtained from your line manager, Administrative Officer or the Human Resources Division of the Chief Executive's Department. (See para 4.2)
- 2.7 This policy applies to:
- (i) all employees of the Council.

- (ii) contractors working for the Council on Council premises (for example agency staff).
- (iii) suppliers and those providing services under a contract with the Council.
- (iv) people working in partnership with the Council, and its employees and Members (e.g. volunteers, trustees etc.).

2.8 If in doubt - raise it!

### **3. The Council's Assurance to You**

#### **3.1 Your safety**

The Members, the Chief Executive and the General Management Team are committed to this Policy. You will not be at risk of suffering any form of retribution as a result of raising your concerns, provided that you are acting in good faith. It does not matter if you are mistaken, so long as you reasonably believe there is a problem.

3.2 Of course, the Council does not extend this assurance to someone who maliciously raises a matter that they know is untrue or makes an allegation for personal gain. This could be construed as gross misconduct and disciplinary action may be taken.

#### **3.3 Your confidence**

The Council will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, it is recognised that you may nonetheless want to raise a concern in confidence under this Policy. If you ask that your identity is protected by keeping your confidence, it will not be disclosed without your consent. If the situation arises where the Council is not able to resolve the concern without revealing your identity (for instance because your evidence is needed in court), it will be discussed with you, as to whether and how the matter can be proceeded with.

3.4 Remember that if you do not tell the Council who you are, it will be much more difficult to look into the matter, or to protect your position, or to give you feedback. Accordingly, while anonymous reports may be considered, this Policy is not appropriate for concerns raised anonymously. Concerns raised anonymously are much less powerful, but may be considered at the discretion of the Council.

3.5 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that may already affect you.

### **4. Aims and scope of the policy**

4.1 This Policy aims to:

- (i) encourage you to feel confident in raising serious concerns and to question and to act upon concerns about Council practice.

- (ii) provide avenues for you to raise those concerns and receive feedback on any action taken.
- (iii) ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
- (iv) reassure you that you will be protected from any possible reprisals and victimisation if you have a reasonable belief that you have made the disclosure in good faith.

4.2 There are already existing procedures in place within the Council for disclosing certain concerns. These are:

- (i) the Council's complaints procedure.
- (ii) the Council's Grievance Procedure, which enables you to lodge a grievance relating to your own employment.

This policy is intended to cover major concerns that may fall outside the scope of other procedures. These include:

- the unauthorised use of public funds.
- possible fraud or corruption.
- sexual or physical abuse of both employees and clients.
- health and safety risks (including risks to the public as well as to other employees).
- conduct which is an offence or breach of law.
- disclosures related to miscarriages of justice (i.e. where the Council has acted improperly or unfairly).
- damage to the environment.
- other unethical conduct.

4.3 It is clear that any serious concerns that you may have about any aspect of service provision, or the conduct of Officers or Members of the Council, or others acting on behalf of the Council, can be reported under this Policy. This may be something that:

- makes you feel uncomfortable, or
- is against any of the Council's existing codes and policies, such as procedure rules or financial regulations or
- is contrary to established standards of practice, or amounts to improper conduct.

## **5. How the matter will be handled**

5.1 Once you have notified the Council of your concern, it will be looked into in order to assess initially what action should be taken. This may involve an internal enquiry or a more formal investigation. You will be notified who is handling the matter, how you can



contact them, and whether your further assistance may be needed. A formal written response will be issued to you summarising your concern and setting out how the Council proposes to handle the matter.

- 5.2 When you raise the concern you may be asked how you think the matter might best be resolved. If you have any personal interest in the matter, it is vital that this is mentioned at the outset. If your concern more properly falls within another Council policy, such as the grievance procedure you will be notified.
- 5.3 While the purpose of this Policy is to investigate possible malpractice and take appropriate steps to deal with it, you will be given as much feedback as possible.
- 5.4 Rarely, a case might arise where it is the employer that has participated (or even continues to participate) in the action causing concern. In such a case it is in the employee's interest to come into the open as soon as possible.

## **6. How to raise a concern**

### **6.1 Step 1**

If you have a concern about malpractice, it is hoped that you will be able to raise it first with your line manager. This will obviously depend upon the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved, you should approach the officers identified in Step 2 below. You may, at any stage, feel the necessity to take independent advice (See Section 6.4).

### **6.2 Step 2**

If you feel unable to raise the matter with your line manager, for whatever reason, you should raise the matter with your Director.

### **6.3 Step 3**

If either, or both, of these channels have been followed, and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, you may wish to contact either the Monitoring Officer or the Chief Executive:

Name: Sachdev Khosa (Monitoring Officer)  
Contact Details: Monitoring Officer  
Council Offices, Foster Avenue, Beeston, Nottingham, NG9 1AB  
Tel: 9173221

or

Name: Ruth Hyde (Chief Executive)  
Contact Details: Chief Executive's Office, Council Offices, Foster Avenue, Beeston, Nottingham, NG9 1AB  
Tel: 9173255

or

Name: Chris Fish (Chief Audit and Control Officer)

Contact Details: Chief Audit and Control Officer, Council Offices, Foster Avenue, Beeston, Nottingham, HG9 1AB  
Tel: 9173212

6.4 Either the Chief Executive or the Monitoring Officer may refer your concern to the Council's Standards Hearing Sub Committee.

6.5 Independent advice

If you are unsure whether in principle to use this procedure or you want independent advice at any stage, you may contact:

- your union (if you are a member) who could assist you in raising your concern, or
- the Council's external auditors are Mazars. The lead external auditor at Mazars for Broxtowe is Mark Surridge, contact details are: <https://www.mazars.co.uk/Users/Our-team/Mark-Surridge> or 0121 2329600, or
- the independent charity Public Concern at Work on 0171 404 6609. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.

6.6 External contracts

While it is hoped that this Policy gives you the reassurance you need to raise such matters internally, it is recognised that there may be circumstances where you can properly report matters to outside bodies, such as the prescribed regulators, some of whom are outlined below, or the police. Prescribed regulators, who will be appointed by the Government, are external bodies able to take and consider your concerns). Public Concern at Work, or if applicable your own union, will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely.

Relevant prescribed regulators are as follows:

- (i) Health and safety risks - Health and Safety Executive
- (ii) Environmental issues - The Environment Agency
- (iii) Financial services - Financial Conduct Authority and The Bank of England.
- (iv) Fraud and fiscal irregularities - Serious Fraud Office, Inland Revenue and Customs and Excise.
- (v) Public sector finance - National Audit Office.
- (vi) Competition & consumer law - Office of Fair Trading.

- (vii) Others - Certification Officer (Trade Unions), Charity Commission, Data Protection Registrar.

There are additional regulators other than those outlined above.

- 6.7 You may wish to consider discussing your concern with a colleague first, and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.
- 6.8 You may invite your union representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

## **7. How the Council will respond**

- 7.1 Any concerns raised will always receive a response. This will entail consideration of the disclosure and may involve an internal investigation, following which matters may be referred to an external agency (such as external audit or the police).
- 7.2 In order to protect individuals and those accused of possible malpractice, initial enquiries will be made in order to identify whether an investigation is appropriate and, if it is, what form it should take. The overriding principle here is the public interest.
- 7.3 Within ten working days of a concern being raised, the Monitoring Officer will write to you:
  - (i) acknowledging that the concern has been received.
  - (ii) indicating how it is proposed to deal with the matter.
  - (iii) giving an estimate of how long it will take to complete investigations.
  - (iv) telling you whether any initial enquiries have been made.
  - (v) supplying you with the information on how the Council will support you if you think this is necessary, whilst the matter is under consideration.
  - (vi) keeping you informed of the progress.
- 7.4 The amount of contact between you and the Officers considering the matter will depend on both the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you. Meetings can take place away from the Council offices if you prefer.
- 7.5 Steps will be taken to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, arrangements will be made for you to receive advice about the procedure.

**8. If you are dissatisfied**

- 8.1 If you feel that the Council has not responded correctly at any stage, remember you can go to the other levels and bodies mentioned in section 6.5. While it cannot be guaranteed that all matters will be addressed in the way you might wish, it will always be the Council's intention to handle the matter fairly and properly. By using this policy, you will help achieve this.
- 8.2 If you do take the matter outside the Council, you must ensure that you do not disclose confidential information.

**9. The Responsible Officer**

- 9.1 The Chief Executive has the overall responsibility for the maintenance and operation of this Policy, and will maintain a record of concerns raised and the results of any investigations made (in a form that will not endanger your confidentiality).

## **Chapter 5 Part 6:**

### **Charter for Consultation and Relations with Parish and Town Councils**

#### **CHARTER FOR CONSULTATION BETWEEN BROXTOWE AND THE PARISH AND TOWN COUNCILS**

1. This Charter applies to all Broxtowe's services and affirms Broxtowe's commitment to the flow of information between Broxtowe and the Parish and Town Councils in order to encourage community working.
2. Both Broxtowe and the Town and Parish Councils who are signatories to this Charter believe in the importance of working in partnership for mutual benefit and for the better representation of local community aspirations. The Charter is designed to strengthen communications through information exchange and through consultation.
3. Broxtowe will give Parish and Town Councils up-to-date public information about its services and facilities as follows: its annual report, the public agenda for Council and Committee meetings (for those Parish and Town Councils which want that information), copies of planning applications in accordance with the statutory procedures, a current list of its Members and Committee membership, a calendar of meetings, a current list of key contact Officers, information about applications for entertainments licences within the Parish and Town. Broxtowe recognises that Parish and Town Councils may have different requirements and aspirations and will therefore try to meet requests for information and consultation in a flexible and responsive way.
4. In their turn, Parish and Town Councils will supply their Ward representatives with agendas for Parish and Town Council meetings (if they are desired). Parish and Town Councils will also assist in keeping their Ward representatives informed of local views on current issues and seek to maintain close contact with them. Whilst recognising the pressure on the time of Broxtowe Members, the Parish and Town Council will seek to invite Ward Councillors to Parish and Town Council meetings.
5. Broxtowe will provide speakers to address local Councils on matters for which it has responsibility as appropriate and as soon as practicable.
6. Each Parish and Town Council will seek to keep Broxtowe informed of changes in local circumstances thereby assisting Broxtowe to provide a better service to residents of the Borough.
7. Where appropriate Broxtowe will seek to give informal advice to Parish and Town Councils regarding legal, financial and technical matters.

8. Where Broxtowe is consulting Parish and Town Councils, it will indicate the date by which responses are needed. Following such consultation Broxtowe will inform the Parish and Town Councils of the decision taken.

Date .....

Signed .....  
for Broxtowe Borough Council

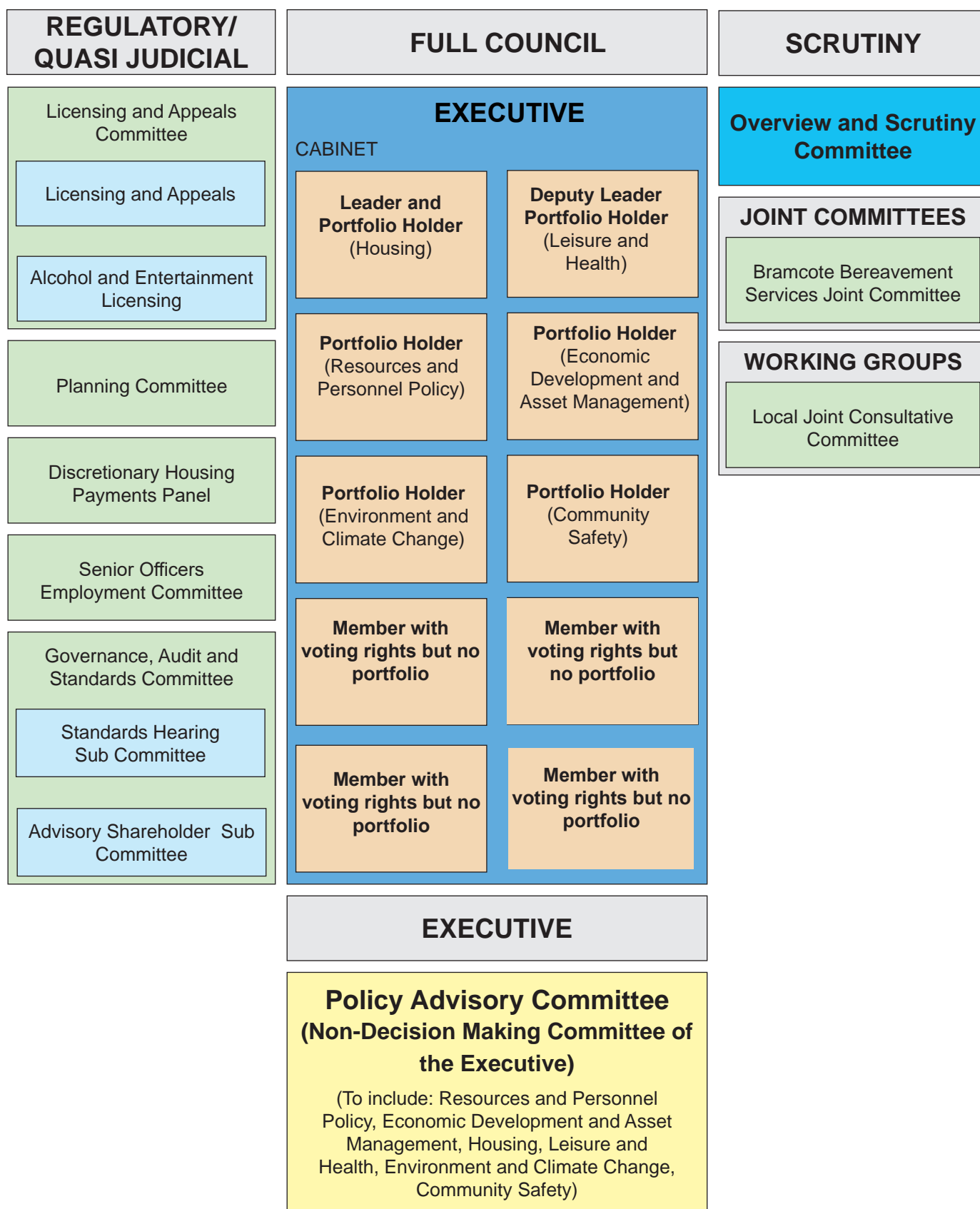
Signed .....  
for Parish Council

# **Broxtowe Borough Council Constitution**

## **Chapter 6 – Appendix 1**

### **Governance Structure Chart**

## Governance Arrangements



### Notes:

- No Executive Members can be on Scrutiny Committees
- Collective decision making by Cabinet
- Portfolio holders cannot be Chair of regulatory Committees
- Proportionality must be observed across non- Executive Committees

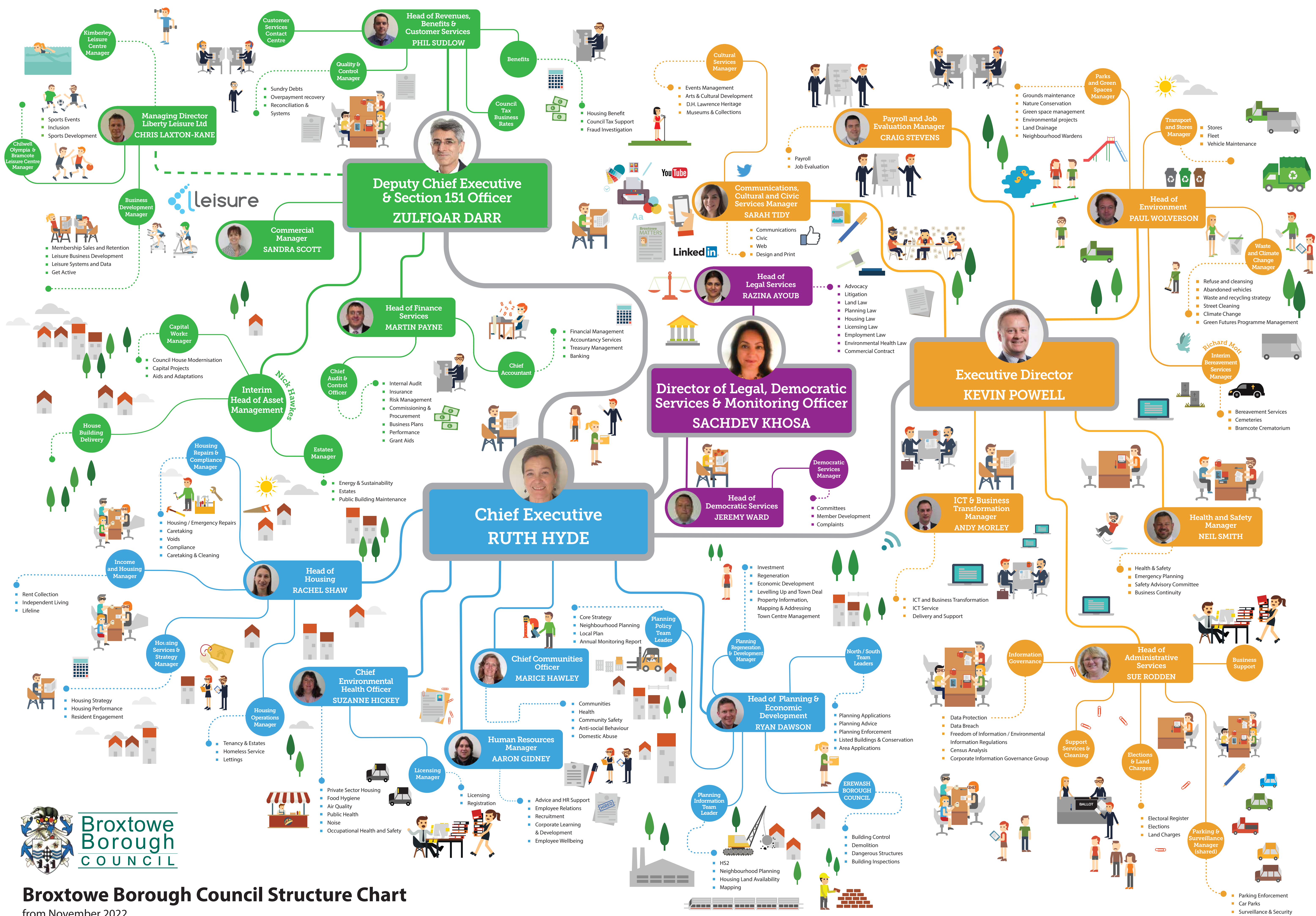


# **Broxtowe Borough Council Constitution**

## **Chapter 6 – Appendix 2**

### **Establishment Structure Chart**







# **Broxtowe Borough Council Constitution**

## **Chapter 6 – Appendix 3**

### **The Local Joint Consultative Committee (LJCC)**



Broxtowe  
Borough  
COUNCIL

# **LOCAL JOINT CONSULTATIVE COMMITTEE CONSTITUTION**

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## **LOCAL JOINT CONSULTATIVE COMMITTEE CONSTITUTION**

### **1. Introduction**

The body shall be known as the Broxtowe Borough Council Local Joint Consultative Committee for all Employees ("LJCC").

### **2. Objective**

The objective of the LJCC is to provide a means for joint consultation between members of the Council and representatives of all employees of the Council to consider matters of common interest, generally further good relations, and make recommendations to the Cabinet.

### **3. Representation**

The LJCC shall consist of:-

Nine member representatives. They shall be appointed to constitute the employer's side. In addition, either the Leader or Deputy Leader of the Council and either the Leader or Deputy Leader of the Opposition may attend each meeting with full speaking and voting powers.

Nine employee representatives appointed to constitute the employees' side, comprising representatives of all employees of the Council. These representatives will be nominated and recognised shop stewards of the trade unions and nominated jointly by them and ensuring fair representation based on proportionality from the unions ie:-

- Transport & General Workers' Union - three representatives
- Unison - six representatives

Members of the LJCC shall be appointed annually as soon as possible following the Council's annual meeting in each year and shall be eligible for re-appointment.

If any member of the LJCC ceases to be a member of the Council or an employee of the Council, they shall thereupon cease to be a member of the LJCC. Any consequential vacancy shall be filled by the Council or by an employee representative as appropriate as soon as practicable.

In the event of any representative of either side being unable to attend any meeting of the LJCC, that representative may nominate a substitute to attend.

The Head of Human Resources shall act as co-ordinator to the LJCC.

#### **4. Chair and Vice Chair**

A Chair and Vice Chair shall be appointed at the first meeting of the LJCC in any Council year. If the Chair appointed is a member of the employers' side then the Vice-Chair shall be appointed from the employees' side, and vice versa.

The Chair shall have a vote, but not a casting vote.

In the absence of both the Chair and Vice Chair from any meeting, the LJCC shall appoint a Chair for the meeting.

#### **5. Functions**

The functions of the LJCC shall be to:-

- Provide regular methods of consultation between the Council and its employees in order to maintain an efficient service to the public, and to prevent differences and misunderstandings between the Council and its employees

Always provided that:-

- no question of individual discipline, promotion or relegation shall be within the scope of the LJCC
- the existence of the LJCC does not interfere with the trade unions' arrangements for separately representing their members
- Make recommendations to the Cabinet as to the implementation of terms and conditions of service of employees
- Consider any relevant matter referred to it by the Cabinet or a Select Committee or by any of the trade unions
- Discharge such other functions as may be specifically referred to it by the Council
- Consider relevant matters raised under employment legislation
- Ensure that employees are given a wider interest in, and greater responsibility for the conditions under which their work is performed
- Provide an effective means of reporting to employees
- Promote the welfare of the employees

- Make suggestions for promoting the efficiency and success of the Council's services and to secure the co-operation of all concerned to those ends
- Seek views on the implementation of matters which have been prescribed or recommended at national or provincial levels, as they relate to local conditions of service

## **6. Agenda**

The matters to be discussed at any meeting of the LJCC shall be stated on the agenda for the meeting.

Matters initiated for inclusion on the agenda of the next meeting shall be submitted in writing to the co-ordinator at least ten working days before the anticipated date of the meeting.

The agenda for the meeting shall be forwarded to members of the LJCC at least five working days prior to the meeting.

## **7. Meetings**

The LJCC shall be scheduled to meet four times each Council year but will not meet less than twice each Council year. The Chair and Vice Chair may call a meeting at any time.

A special meeting shall be called within ten working days of the receipt by the co-ordinator of a requisition signed by not less than half of the members of either side.

Employee representatives shall be granted normal pay for the period of absence from work.

## **8. Procedure**

Advisers to either side may attend meetings of the LJCC. Advisers to the employers' side must be employees of the Council. Advisers to the employees' side must be appointed trade union officials who are not employees. Advisers may speak on items but not vote.

The quorum of the LJCC shall be three members from each side.

No recommendation shall be regarded as carried unless it is approved by a majority of the members present on each side. In the event of the LJCC being unable to arrive at an agreement, the matter shall be adjourned for reconsideration at the next meeting and/or referred for advice and reconciliation.



## **9. Minutes**

The minutes of the proceedings of any meeting of the LJCC shall be submitted to the following meeting of the Committee. The minutes shall be agreed by the Chair and Vice-Chair prior to that submission. Any recommendations shall be subject to approval by the Cabinet.

The minutes of the previous LJCC meeting shall be signed at each meeting by the Chair of that meeting.

### **Note:**

**Membership of the Working Group shall consist of three Members, two Unison and one Unite the Union representatives.**



Broxtowe  
Borough  
COUNCIL

# **Broxtowe Borough Council Constitution**

## **Chapter 6 – Appendix 4**

### **Bramcote Bereavement Services Joint Committee**

*Broxtowe Borough Council  
Constitution*

*Chapter 6 – Appendix 4*

**AGREEMENT WITH EREWASH BOROUGH COUNCIL  
ESTABLISHING THE JOINT COMMITTEE FOR  
BRAMCOTE CREMATORIUM**

**THIS DEED OF AGREEMENT** is made the                      day of  
Two Thousand and Sixteen **BETWEEN:**

- (1) **BROXTOWE BOROUGH COUNCIL** of Council Offices Foster Avenue Beeston Nottingham NG9 1AB ("Broxtowe") and
- (2) **EREWASH BOROUGH COUNCIL** of Town Hall Ilkeston Derby DE7 5RP ("Erewash")

**WHEREAS:**

1. The Authorities to this Deed have by their respective Executive Cabinets and by virtue of Section 102 (1) of the Local Government Act 1972 the Local Government Act 2000 the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and all and every power enabling them agreed and resolved to constitute a Joint Committee to exercise the powers which each of the Authorities hereto might respectively have exercised by virtue of the Cremation Acts 1902 and 1952 for the provision running maintenance and management of the existing Crematorium at Bramcote within the Borough of Broxtowe which is more particularly described in paragraph 1 below
2. The said Authorities now wish to constitute the said Joint Committee on the terms set out below and to the intent that the Deeds of Agreement between the said Authorities and dated 15 July 1976, 30 July 2001 and 1 September 2006 shall forthwith cease to have any effect

**NOW** in pursuance of the said agreement and the respective resolutions and in consideration of these presents **THIS DEED WITNESSES** as follows:

1. Definitions and interpretation

- 1.1 In this agreement the following expressions have the meanings set out below, unless the context otherwise requires:

"Authority" either Broxtowe or Erewash and "Authorities" shall be construed accordingly

"Annual Meeting" the annual meeting of the Joint Committee held each year in accordance with paragraph 7.2 of this agreement

"Blue Land" land forming part of the Crematorium Site and shown shaded blue on the Plan

"Chief Executive" the head of an Authority's paid service being the person designated as such under Section 4 of the Local Government and Housing Act 1989

"Clerk" the person appointed by virtue of paragraph 16.1 to carry out certain duties allocated by this agreement

“Commencement Date” the                      day of                      2016

“Council” the Council of elected Members of one or other of the Authorities to this agreement

“Crematorium” the crematorium known as Bramcote Crematorium which includes all buildings grounds equipment and other property appurtenant there

“Crematorium Site” the land shown edged red on the north-west side of Coventry Lane Bramcote in the Borough of Broxtowe and comprising the Blue Land and the Pink Land

“Executive Cabinet” in relation to each Authority the group of Executive Members including the Leader of the Council appointed by the Council of the Authority to act with the Leader for the purposes of Section 15 of the Local Government Act 2000

“Financial Year” the period running from 1 April in one calendar year until 31 March in the next calendar year (inclusive)

“Joint Committee” the Bramcote Bereavement Services Joint Committee constituted by this agreement

“Member” unless the context otherwise so requires, a Member of the Joint Committee

“Monitoring Officer” Broxtowe’s Director of Legal and Planning Services being the person designated under Section 5 of the Local Government and Housing Act 1989 or the Director’s nominated deputy in the case of absence or illness

“Ordinary Meeting” any meeting of the Joint Committee that is not an Annual Meeting or a Special Meeting

“Pink Land” land forming part of the Crematorium Site and shown shaded pink on the Plan

“Plan” the plan attached hereto

“Principal Office” in the case of Broxtowe the Council Offices and in the case of Erewash the Town Hall as referred to at the beginning of this Agreement

“Special Meeting” a meeting of the Joint Committee convened in accordance with paragraph 7.6 of this Agreement

1.2 Words importing one gender include all other genders; and

1.3 Words importing the singular include the plural and vice versa

1.4 The clause paragraph and schedule headings do not form part of this agreement and shall not be taken into account in its construction or interpretation

1.5 References to statutes sections of statutes or statutory instruments shall include any statutory modifications or re-enactment thereof from time to time and for the time being in force

## 2. Duration of Joint Committee

The Authorities shall constitute the Joint Committee from the Commencement Date and the Joint Committee shall continue thereafter unless and until determined by either Authority or both of them under the provisions contained in this agreement

## 3. Name of Joint Committee

The Joint Committee shall be known as the Bramcote Bereavement Services Joint Committee

## 4. Provision and location of Crematorium

4.1 The Crematorium is located on the Crematorium Site which site was acquired by the Authorities prior to the date hereof and more particularly the Blue Land was acquired on 3 June 1976 and the Pink Land was acquired on 6 November 1996

4.2 The Crematorium Site is now vested in Broxtowe by virtue of Section 120(4) of the Local Government Act 1972 and all and every power so enabling and registered at HM Land Registry with Title Absolute under Title Number NT66152

## 5. Membership

5.1 The Joint Committee shall consist of Members appointed by the Authorities as follows:

5.1.1 The Executive Cabinet or Council (as appropriate) of each Authority shall appoint from its own membership three Members which appointments shall reflect the political balance of each membership

5.1.2 Subject to the provisions of this agreement each Member shall continue in office for a period of one year or until such time as he shall cease to be a Member of the Council by whom he is appointed whichever is the sooner and any provisions in the Procedure Rules of either Authority to the contrary is hereby waived

5.1.3 If either Authority does not appoint the number of Members which it is entitled to appoint the other Members of the Joint Committee shall

be competent to carry out the business thereof pursuant to this agreement

5.1.4 Any person who is a Member of the Councils of both Authorities shall only represent the first Authority to appoint him as a Member and any subsequent appointment by the other Authority shall be void

5.2 The Chief Executive of each Authority shall notify the Chief Executive of the other Authority and the Clerk within fourteen days of any appointment of a member of his Council to the Joint Committee

5.3 Any Member may at any time resign his office as such Member by notice addressed to the Clerk who shall forthwith notify the respective Chief Executives of each of the Authorities

5.4 Any Member may be removed at any time by resolution by the Executive Cabinet or Council (as appropriate) of the Authority by whom he was appointed but such removal should only become effective upon receipt by the Clerk of notification thereof

## 6. Chair and Vice Chair

6.1 At the first meeting of the Joint Committee and subsequently at its Annual Meeting in each successive year the Joint Committee shall select one of its Members as Chair and another as Vice-Chair for the forthcoming year Provided that at no time shall the Chair and Vice Chair be Members of the same Authority

6.2 The offices of Chair and Vice-Chair shall in successive years alternate between Members from each Authority so that no Authority has in office a Member or Members for more than the period from one Annual Meeting to the next

6.3 The elected Chair and Vice-Chair shall remain in office until the next Annual Meeting unless by reason of death resignation disqualification or any other cause before that time and upon a vacancy occurring during the term of office another Member from the same Authority shall be appointed by the Joint Committee to fill the vacancy until the next Annual Meeting

6.4 If there is equality of votes as to the appointment of Chair or Vice-Chair then the Chair for the time being of that meeting shall have a casting vote

## 7. Meetings of the Joint Committee

7.1 The first meeting of the Joint Committee shall be convened by the Clerk

7.2 The Joint Committee shall hold an Annual Meeting before the end of June in each year

- 7.3 Other than the Annual Meetings, meetings shall be held at such places and on such dates and at such times as the Joint Committee may decide from time to time save that meetings shall be held not less than quarterly
- 7.4 Ordinary meetings and Annual Meetings of the Joint Committee shall be convened by the Clerk who shall deliver notice thereof to each Member at least five clear days before the date of the meeting [Provided that failure to serve such a notice on any Member of the Joint Committee shall not affect the validity of the meeting]
- 7.5 With the notice referred to in paragraph 7.4 the Clerk shall send a copy of the agenda for the meeting which shall include:
- 7.5.1 provision for the declaration of disclosable pecuniary interest and/or other interest for the purposes of the Code of Conduct
- 7.5.2 all items of business which have been, or are deemed to have been, referred to the Joint Committee by a scrutiny committee, the Cabinet or a Council resolution of either Authority;
- 7.5.3 all reports submitted by any Officer of either Authority; and
- 7.5.4 any item of business directed to be included by the person appointed to preside at the meeting
- 7.6 A quorum of three Members must be present to constitute a meeting Provided that there is at least one Member present from each Authority
- 7.7 The Chair and two or more Members of the Joint Committee may at any time by notice specifying the business to be transacted and sent to the Clerk require a Special Meetings of the Joint Committee to be convened and the Clerk shall accordingly convene a Special Meetings which shall be held within thirty clear days of receipt by the Clerk of the said notice
- 7.8 The Clerk shall give Members of the Joint Committee at least five clear days' notice of the Special Meeting and such notice shall specify the business proposed to be transacted
- 7.9 No business shall be transacted at a Special Meeting other than that specified in the notice sent to the Clerk and referred to in paragraph 7.7 above

## 8. Person presiding at Meetings

The Chair or in his absence the Vice-Chair shall preside at every meeting Provided that if both the Chair and the Vice-Chair are absent the Members present shall elect another Member of the Joint Committee who shall preside at that meeting

## 9. Voting



- 9.1 Every question at a meeting of the Joint Committee shall be decided by a majority vote of those Members present and in the case of an equality of votes the person presiding at the meeting shall have a second and casting vote
- 9.2 Except where a requisition is made under the next paragraph 9.3, the method of voting at meetings of the Joint Committee shall be by show of hands
- 9.3 If a requisition for a recorded vote is made by any Member present before a vote is taken on any question or motion, the voting shall be recorded so as to show whether each Member present voted for or against that question or motion or abstained from voting

## 10. Minutes

- 10.1 The Clerk shall be responsible for keeping a record of attendance and a record of the business transacted at every meeting of the Joint Committee and the minute book shall be submitted to, and signed at the next following meeting
- 10.2 The person presiding at the next following meeting referred to in paragraph 10.1 shall put the question that the minutes be approved as a correct record of the previous meeting
- 10.3 No discussion shall take place upon the minutes, except upon their accuracy. If no question is raised as to the accuracy or if it is raised then as soon as it is disposed of, the person presiding shall sign the minutes
- 10.4 Copies of the minutes of every meeting of the Joint Committee and any Sub-Committee thereof shall as soon as possible after each meeting be sent by the Clerk to the Chief Executive of each Authority and each Chief Executive shall submit a copy of the minutes to the appropriate Committee of his Council for consideration at the next meeting thereof, subject to proper notice in accordance with that Council's Procedure Rules
- 10.5 If any matter or decision arising from the minutes of the Joint Committee is referred by a Committee of either Authority to the Joint Committee, it shall be reconsidered in the light of the Committee's reference and reasons by the Joint Committee at the next Joint Committee meeting of which proper notice of the matter can be given and the Joint Committee's decision after such reconsideration shall be final

## 11. Sub-Committees

- 11.1 The Joint Committee may from time to time appoint Sub-Committees for any general or special purposes in connection with their powers and

functions. Any Sub-Committee so appointed shall consist only of Members but shall include at least one Member from each Authority

11.2 The Joint Committee shall at the time of appointing any Sub-Committee resolve what shall be the terms of reference of that Sub-Committee

## 12. Vacancies

No act or proceeding of the Joint Committee shall be questioned on account of any vacancy or on account of any defect in the appointment of any Member

## 13. Capital Expenditure

13.1 If the Joint Committee shall at any time require to incur capital expenditure for

13.1.1 the acquisition of property;

13.1.2 the construction of works; or

13.1.3 any other capital purposes in connection with its powers

then (unless the Joint Committee shall in their discretion decide to delay such expenditure out of revenue) the Authorities shall, either pay such sums in equal shares to the Joint Committee at such times as the Joint Committee shall direct, or if the Joint Committee so decides and subject to any necessary statutory or other consents, borrow the sum required in equal shares on the terms and conditions prescribed or approved by the Joint Committee

13.2 The Joint Committee shall from time to time pay the amounts of all interests and all instalments of principal or other payments that become due under any loan raised pursuant to paragraph 13.1 above

## 14. Revenue Expenditure

14.1 All expenses incurred by the Joint Committee out of income in any financial year shall be borne equally by the Authorities

14.2 The Joint Committee may require each Authority to pay to the Joint Committee on 1 April or such other date as the Authorities may determine in each financial year such sum as the Joint Committee might estimate as half of the expected deficit for that financial year

14.3 As soon as possible after the end of any financial year the Joint Committee shall calculate the exact net revenue expenditure for the preceding year and shall make the appropriate adjustment of the payments already made by each Authority

14.4 The Joint Committee may use or carry forward part or all of any profit or surplus made in any financial year for the purpose of

14.4.1 paying debts

14.4.2 meeting contingencies or

14.4.3 meeting future expenses

But any amount of such profit or surplus not so applied shall be returned to the Authorities in equal shares

15. Interest on sums due

Any sum properly payable by either of the Authorities to the Joint Committee whether of a capital or revenue nature, which is not paid by the due date shall be liable to interest at the base lending rate of the Barclays Bank plc until such time as the sum due is paid in full

16. Appointment of Officers

16.1 (a) The Clerk shall be the Chief Executive of Broxtowe  
(b) The Treasurer shall be the Deputy Chief Executive of Broxtowe  
(c) Erewash shall appoint a Liaison Officer to the Joint Committee and the Chief Executive of Erewash shall notify and keep notified the Clerk of the person appointed by Erewash to the post

16.2 The Joint Committee shall appoint and pay such employees as it deems necessary to provide equip maintain and manage the Crematorium and all services and duties ancillary thereto and required to be provided by virtue of this agreement or by statute and such employees shall be enabled to join any pension scheme which employees of Broxtowe are entitled to join by virtue of their individual contracts of employment

16.3 The functions of the Joint Committee shall be dealt with by Broxtowe Officers in accordance with the attached Schedule. For the avoidance of doubt the identified Officers shall include Officers succeeding to the named Officers' responsibilities on any re-organisation

17. Accounts

17.1 The Treasurer shall keep accounts of all moneys received by and all expenditure of the Joint Committee as may be required for the purposes of Part 8 of the Local Government Act 1972

17.2 As soon as practicable after the end of the Financial Year the Joint Committee shall send to each Authority a full report of the operations

of the Joint committee during the last financial year and a copy of the accounts therefor

17.3 Broxtowe will carry out an annual audit of the accounts and the Joint Committee will provide a copy of the report thereof to each of the Authorities as soon as practicably possible after receipt of the same

## 18. Performance of Agreement

18.1 The Authorities shall at all times take all or any action as may be necessary for giving full effect to this agreement and every provision and obligation contained herein and any decision made by the Joint Committee pursuant hereto

18.2 Each Authority shall bear its own costs for the negotiation preparation completion and stamping of this agreement

18.3 If either Authority shall fail to carry out any necessary act required to be taken pursuant to paragraph 18.1 above, the other may implement any reasonable measures necessary to give effect to this agreement or any proper decision of the Joint Committee and the reasonable costs thereof shall be recoverable as a debt from the Authority which so failed to act

## 19. Termination

19.1 If the Authorities or either of them shall wish to determine this agreement or make any alterations to the terms hereof then in default of agreement between the Authorities the matter shall be referred to arbitration in accordance with paragraph 20 below

## 20. Arbitration

Any dispute between the Authorities under or arising out of this agreement shall be referred to a single arbitrator to be agreed upon by the Authorities or in default of agreement to be nominated by the Secretary of State for Communities and Local Government or such other Government Minister as shall be appropriate in accordance with and subject to the provision of [The Arbitration Acts 1950 and 1979] or any statutory modification or re-enactment of them for the time being in force

## 21. Complaints

Any complaint received by the Joint Committee or either or both of the Authorities relating to the Crematorium or any Officer employed thereat or to the performance of functions under this agreement shall be dealt with in the first instance in accordance with Broxtowe's formal complaints procedure and if the complaint is not resolved as a result of that process or if a complaint is received from the Local Government Ombudsman by the Monitoring Officer

22. Notices

Notices under this agreement shall be in writing and except where otherwise specifically provided herein delivered or dispatched by first class post to the Principal Office of the Authority or the Principal Office of the Authority by whom the Clerk is employed as the case may be. A notice given by first class post is deemed to be given and received three days after it is dispatched

23. General

The Contracts (Rights of Third Authorities) Act 1999 shall not apply to this agreement

**EXECUTED** by the Authorities as a Deed the day and year first before written

**SEALED AS A DEED** by )  
 )  
**BROXTOWE BOROUGH COUNCIL** )  
 )  
In the presence of: )

Mayor

Duly Authorised Officer

**SEALED AS A DEED** by )  
 )  
**EREWASH BOROUGH COUNCIL** )  
 )  
In the presence of: )

Mayor

Duly Authorised Officer

## **SCHEDULE**

(Functions of the Joint Committee dealt with by Broxtowe Officers)

Meetings: agenda and minutes (Chief Executive)	Clerk
Governance: Procedure Rules , complaints, monitoring officer	Monitoring Officer (Director of Legal and Planning Services)
Finance: treasurer, financial regulations, budgets, accounts, insurance, audit, medium-term financial strategy, risk management	Treasurer (Deputy Chief Executive)
Head of Paid Service: Officer liaison on all crematorium matters and overall management control, service delivery plan, performance management	Clerk (Chief Executive)
Conditions of service, employee relations, establishment, payroll, employee appeals and consultation, recruitment and training, health and safety, IT development and maintenance	Clerk (Chief Executive)
Public relations: press releases, Communications	Clerk (Chief Executive)
Legal services: freedom of information, legal advice, bad debts	Director of Legal and Planning Services
Buildings & Land: estates, assets, contracts & leases, architect, surveyor, developer of grounds	Director of Legal and Planning
Environment: noise, pollution (monitoring and control)	Director of Housing, Leisure & Property Services
Cremations: specialist professional and statutory advice on cremation administration, procedures, rules and regulations, liaison with users	Crematorium Manager
Funeral services supervision, interments and ancillary activities	Crematorium Manager
Building grounds maintenance, supervision and security	Crematorium Manager

Income and expenditure control  
within financial regulations

Crematorium Manager

**DATED 2016**

**B E T W E E N**

**BROXTOWE BOROUGH COUNCIL**

**and**

**EREWASH BOROUGH COUNCIL**

**A G R E E M E N T**

**Relating to Joint Use Arrangements  
for Bramcote Crematorium,  
Bramcote in the County of  
Nottingham**

*Bramcote Bereavement Services/Draft Joint  
Committee Agreement 2016*



# **Broxtowe Borough Council Constitution**

## **Chapter 6 – Appendix 5**

### **Economic Prosperity Committee**

**The City of Nottingham and Nottinghamshire  
Economic Prosperity Committee**

**CONSTITUTION 2018- 2020**

**CONTENTS**

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Section 16	Winding up of the EPC
Section 17	Amendment of this Constitution

**1. Purpose**

- 1.1 To bring together Local Authorities in Nottingham and Nottinghamshire to agree and promote the key aspects of economic prosperity across the area, with a specific focus on shared priorities and securing investment.

**2. Governance**

- 2.1 The Economic Prosperity Committee (“EPC”) will act as a Joint Committee under Section 9EB of the Local Government Act 2000 and pursuant to Regulation 11 of the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012.
- 2.2 The EPC will comprise the local authorities within the Nottinghamshire area: Ashfield District Council, Bassetlaw District Council, Broxtowe Borough Council, Gedling Borough Council, Mansfield District Council, Newark and Sherwood District Council, Nottingham City Council, Nottinghamshire County Council and Rushcliffe Borough Council (“constituent authorities”).
- 2.3 Political Proportionality rules will not apply to the EPC as so constituted.
- 2.4 The EPC will be a legally constituted body with powers delegated to it by the

constituent authorities in the following areas:

- a) to prioritise and make decisions on the use of the funding that the EPC may influence or control;
- b) to review future governance requirements and delivery arrangements and how these can be best achieved in Nottingham and Nottinghamshire;
- c) to have direct oversight of key economic growth focused projects and initiatives that the EPC has influence over the funding of or contributes to;
- d) to have strategic oversight of other key growth focused projects and initiatives in Nottingham and Nottinghamshire.

The EPC will not hold funds or monies on behalf of the constituent authorities.

- 2.5 The EPC's work plan and the outcome of any wider review into alternative governance may require a change in the delegated powers and terms of reference of the EPC and any such change would require the approval of all the constituent authorities.
- 2.6 These terms of reference should be reviewed two years after their adoption or after any amendments.

### 3. Remit

3.1 The remit of the EPC will be:

- a) to act as a local public sector decision making body for strategic economic growth;
- b) to act as a conduit to other sub-regional and regional bodies such as the D2N2 Local Enterprise Partnership and the Midlands Engine;
- c) to oversee the alignment of relevant local authority plans for economic prosperity;
- d) where appropriate, to agree shared priorities and bids for funding to existing and new funding sources such as Local Growth Funds, European Funds (until the end of the Brexit transition period) and the Shared Prosperity Fund (at the end of the Brexit transition period);
- e) to monitor and evaluate projects and programmes of activity commissioned directly by the EPC;
- f) to agree, monitor and evaluate spending priorities for the Nottinghamshire Business Rates Pool. (Only those constituent authorities that are Members of the Pool would participate in this);
- g) to communicate and, where unanimously agreed, to align activity across Nottingham and Nottinghamshire on a range of other key public priorities that affect citizens.

### 4. Membership

- 4.1 One Member from each constituent authority (such Member to be the Leader/Elected Mayor or other Executive Member or Committee Chair from each constituent authority) and for the purposes of these terms of reference this Member will be known as the principal Member.
- 4.2 Each constituent authority to have a named substitute Member who must be an Executive Member where the authority operates Executive governance

arrangements. In those constituent authorities where governance is by Committee, that alternate Member shall be as per that authority's rules of substitution. All constituent authorities must provide no less than twenty four hours' notice to either the Chair or the Secretary where a substitute Member will be attending in place of the principal Member. Regardless of any such notification, where both the principal Member and the substitute Member attends a meeting of the EPC the principal Member shall be deemed as representing their authority by the Chair or Vice Chair.

- 4.3 In the event of any voting Member of the EPC ceasing to be a Member of the constituent authority which appointed them, the relevant constituent authority shall as soon as reasonably practicable appoint another voting Member in their place.
- 4.4 Where a Member of the EPC ceases to be a Leader / Elected Mayor of the constituent authority which appointed him/her or ceases to be a Member of the Executive or Committee Chair of the constituent authority which appointed them, they shall also cease to be a Member of the EPC and the relevant constituent authority shall as soon as reasonably practicable appoint another voting Member in their place.
- 4.5 Each constituent authority may remove its principal Member or substitute Member and appoint a different Member or substitute as per that authority's rules of substitution, and by providing twenty-four hours' notice to the Chair or the Secretary. Co-options onto the Committee are not permitted.
- 4.6 Each constituent authority may individually terminate its membership of the EPC by providing twelve months written notice of its intent to leave the EPC to the Chair or the Secretary. At the end of these twelve months, but not before, the authority will be deemed to no longer be a Member of the EPC.
- 4.7 Where an authority has previously terminated its membership of the EPC it may rejoin the EPC with immediate effect on the same terms as existed prior to its departure, where the EPC agrees to that authority rejoining via a majority vote.

### 5. **Quorum**

- 5.1 The quorum shall be 5 Members. No business will be transacted at a meeting unless a quorum exists at the beginning of a meeting. If at the beginning of any meeting, the Chair or Secretary after counting the Members present declares that a quorum is not present, the meeting shall stand adjourned.

### 6. **Chair and Vice Chair**

- 6.1 The Chair of the EPC will rotate annually between the principal Member of the City of Nottingham and the principal Member of Nottinghamshire County Council. The position of Vice Chair shall be filled by the principal Member of one of the District/Borough Council Members of the EPC and this role will rotate annually between District/Borough Councils. The Chair or in their absence the Vice Chair or in their absence the Member of the EPC elected for this purpose, shall preside at any meeting of the EPC.
- 6.2 Appointments will be made in May of each year.

- 6.3 Where, at any meeting or part of a meeting of the EPC both the Chair and Vice Chair are either absent or unable to act as Chair or Vice Chair, the EPC shall elect one of the Members of the EPC present at the meeting to preside for the balance of that meeting or part of the meeting, as appropriate. For the avoidance of doubt, the role of Chair and Vice Chair vests in the principal Member concerned and in their absence the role of Chair or Vice Chair will not automatically fall to the relevant constituent authority's substitute Member.

## **7. Voting**

- 7.1 One Member, one vote for each constituent authority.
- 7.2 All questions shall be decided by a majority of the votes of the Members present, the Chair having the casting vote in addition to their vote as a Member of the Committee. Voting at meetings shall be by show of hands.
- 7.3 On the requisition of any two Members, made before the vote is taken, the voting on any matter shall be recorded by the Secretary so as to show how each Member voted and there shall also be recorded the name of any Member present who abstained from voting.

## **8. Sub-Committees and Advisory Groups**

- 8.1 The EPC may appoint Sub-Committees from its membership as required to enable it to execute its responsibilities effectively and may delegate tasks and powers to the Sub-Committee as it sees fit.
- 8.2 The EPC may set up advisory groups as required to enable it to execute its responsibilities effectively and may delegate tasks as it sees fit to these bodies, which may be formed of Officers or Members of the constituent authorities or such third parties as the EPC considers appropriate.

## **9. Hosting and Administration**

- 9.1 The EPC will be hosted by the same authority as the Chair. The Director of Legal and Democratic Services from that authority shall be Secretary to the Committee ("the Secretary"). The Host Authority will also provide s151 and Monitoring Officer roles and legal advice to the EPC. The administrative costs of supporting the Committee will be met equally by the constituent authorities, with each authority being responsible for receiving and paying any travel or subsistence claims from its own Members.
- 9.2 The functions of the Secretary shall be:
- a) to maintain a record of membership of the EPC and any Sub-Committees or advisory groups appointed;
  - b) to publish and notify the proper Officers of each constituent authority of any anticipated "key decisions" to be taken by the EPC to enable the requirements as to formal notice of key decisions as given under the Local Authorities

- (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 to be met;
- c) to carry out such notification to and consultation with Members of any appointing constituent authority as may be necessary to enable the EPC to take urgent “key decisions” in accordance with the requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information ) (England) Regulations 2012;
  - d) to summon meetings of the EPC or any Sub-Committees or advisory groups;
  - e) to prepare and send out the agenda for meetings of the EPC or any Sub-Committees or advisory groups; in consultation with the Chair and the Vice Chair of the Committee (or Sub-Committee/ advisory group);
  - f) to keep a record of the proceedings of the EPC or any Sub-Committees or advisory groups, including those in attendance, declarations of interests, and to publish the minutes;
  - g) to take such administrative action as may be necessary to give effect to decisions of the EPC or any Sub-Committees or advisory groups;
  - h) to perform such other functions as may be determined by the EPC from time to time.

## 10. Meetings

- 10.1 The EPC will meet no less than quarterly and meetings will be aligned where necessary with deadlines for decisions on resources and investment plans.
- 10.2 Meetings will be held at such times, dates and places as may be notified to the Members of the EPC by the Secretary, being such time, place and location as the EPC shall from time to time resolve. Meeting papers will be circulated five clear working days in advance of any meeting. The Chair may choose to accept or reject urgent items that are tabled at any meeting.
- 10.3 Additional ad hoc meetings may be called by the Secretary, in consultation, where practicable, with the Chair and Vice Chair of the Committee, in response to receipt of a request in writing, which request sets out an urgent item of business within the functions of the EPC, addressed to the Secretary:
- (a) from and signed by two Members of the EPC, or
  - (b) from the Chief Executive of any of the constituent authorities.
- 10.4 Urgent, virtual meetings facilitated via teleconference, video conferencing or other remote working methodologies may be called by the Secretary, in consultation, where practicable, with the Chair and Vice Chair of the EPC, in response to receipt of a request in writing, which request sets out an urgent item of business within the functions of the EPC, addressed to the Secretary:
- (a) from and signed by two Members of the EPC; or
  - (b) from the Chief Executive of any of the constituent authorities.

Any such virtual meeting must comply with the access to information provisions and enable public access to proceedings.

10.5 The Secretary shall settle the agenda for any meeting of the EPC after consulting, where practicable, the Chair or in their absence the Vice Chair; and shall incorporate in the agenda any items of business and any reports submitted by:

- (a) the Chief Executive of any of the constituent authorities;
- (b) the Chief Finance Officer to any of the constituent authorities;
- (c) the Monitoring Officer to any of the constituent authorities;
- (d) the Officer responsible for economic development at any of the constituent authorities; or
- (e) any two Members of the EPC.

10.6 The EPC shall, unless the person presiding at the meeting or the EPC determines otherwise in respect of that meeting, conduct its business in accordance with the procedure rules set out in paragraph 13 below.

## **11. Access to Information**

11.1 Meetings of the EPC will be held in public except where confidential or exempt information, as defined in the Local Government Act 1972, is being discussed.

11.2 These rules do not affect any more specific rights to information contained elsewhere under the law.

11.3 The Secretary will ensure that the relevant legislation relating to access to information is complied with. Each constituent authority is to co-operate with the Secretary in fulfilling any requirements.

11.4 Any Freedom of Information or Subject Access Requests received by the EPC should be directed to the relevant constituent authority(s) for that authority to deal with in the usual way, taking account of the relevant legislation. Where the request relates to information held by two or more constituent authorities, they will liaise with each other before replying to the request.

## **12. Attendance at meetings**

12.1 The Chair may invite any person, whether a Member or Officer of one of the constituent authorities or a third party, to attend the meeting and speak on any matter before the EPC.

12.2 Third parties may be invited to attend the EPC on a standing basis following a unanimous vote of those present and voting.

12.3 Where agenda items require independent experts or speakers, the Officer or authority proposing the agenda item should indicate this to the Secretary and provide the Secretary with details of who is required to attend and in what capacity. The participation of independent experts or speakers in EPC meetings will be subject to the discretion of the Chair.

## **13. Procedure Rules**

### 13.1 Attendance

13.1.1 At every meeting, it shall be the responsibility of each Member to enter their name on an attendance record provided by the Secretary from which attendance at the meeting will be recorded.

### 13.2 Order of Business

13.2.1 Subject to paragraph 13.2.2, the order of business at each meeting of the EPC will be:

- i. Apologies for absence
- ii. Declarations of interests
- iii. Approve as a correct record and sign the minutes of the last meeting
- iv. Matters set out in the agenda for the meeting which will clearly indicate which are key decisions and which are not
- v. Matters on the agenda for the meeting which, in the opinion of the Secretary are likely to be considered in the absence of the press and public

13.2.2 The person presiding at the meeting may vary the order of business at the meeting.

### 13.3 Disclosable Pecuniary Interests

13.3.1 If a Member is aware that they have a disclosable pecuniary interest in any matter to be considered at the meeting, the Member must withdraw from the room where the meeting considering the business is being held:

- (a) in the case where paragraph 13.3.2 below applies, immediately after making representations, answering questions or giving evidence;
- (b) in any other case, wherever it becomes apparent that the business is being considered at that meeting;
- (c) unless the Member has obtained a dispensation from their own authority's Standards Committee or Monitoring Officer. Such dispensation to be notified to the Secretary prior to the commencement of the meeting.

13.3.2 Where a Member has a disclosable pecuniary interest in any business of the EPC, the Member may attend the meeting (or a Sub –Committee or advisory group of the Committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

### 13.4 Minutes

13.4.1 There will be no discussion or motion made in respect of the minutes other than except as to their accuracy. If no such question is raised or if it is raised then as soon as it has been disposed of, the Chair shall sign the minutes.

### 13.5 Rules of Debate



### **13.5.1 Respect for the Chair**

A Member wishing to speak shall address the Chair and direct their comments to the question being discussed. The Chair shall decide the order in which to take representations from Members wishing to speak and shall decide all questions of order. Their ruling upon all such questions or upon matters arising in debate shall be final and shall not be open to discussion.

### **13.5.2 Motions / Amendments**

A motion or amendment shall not be discussed unless it has been proposed and seconded. When a motion is under debate no other motion shall be moved except the following:

- i. To amend the motion
- ii. To adjourn the meeting
- iii. To adjourn the debate or consideration of the item
- iv. To proceed to the next business
- v. That the question now be put
- vi. That a Member be not further heard or do leave the meeting
- vii. To exclude the press and public under Section 100A of the Local Government Act 1972

## **13.6 Conduct of Members**

13.6.1 Members of the EPC will be subject to their own authority's Code of Conduct.

## **14. Application to Sub-Committees**

14.1 The procedure rules and also the Access to Information provisions set out at paragraph 11 shall apply to meetings of any Sub-Committees of the EPC.

## **15. Scrutiny of decisions**

15.1 Each constituent authority which operates Executive arrangements will be able to scrutinise the decisions of the EPC in accordance with that constituent authority's Overview and Scrutiny arrangements.

## **16. Winding up of the EPC**

16.1 The EPC may be wound up immediately by a unanimous vote of all constituent authorities.

## **17. Amendment of this Constitution**

17.1 This Constitution can only be amended by resolution of each of the constituent authorities.

# **Broxtowe Borough Council Constitution**

## **Chapter 6 – Appendix 6**

### **Notice of Call-In of Decision**

## Part 6 Appendix 6:

### **NOTICE OF CALL-IN OF DECISION**

In accordance with Chapter 2, Part 7, Rule 15.4 of the Council's Constitution, we the undersigned hereby give notice that we wish to Call-In the following Decision:

1. Decision reference and description.....

.....

2. Date of decision.....

We consider that the decision should be Called-In on the following Grounds (delete as appropriate):

1. The decision is not in accordance with the Council's decision-making principles;
2. The decision is outside the approved Budget or Policy Framework;
3. The decision is outside the powers of the Council
4. The decision is unlawful;
5. The decision is not in the public interest.

### **Reasons (in relation to Grounds 2-5 above)**

--

In relation to **Ground number 1** above, we consider that the following principle(s) of decision-making have been breached (tick as appropriate)

Decision- Making Principle(s) Breached		Reasons	Please tick
a	Open and transparent		
b	Within their authority		
c	Take into account all relevant considerations and ignore irrelevant considerations		

d	Evaluate alternative options		
e	Undertake consultation as required or as may be appropriate		
f	Make decisions which are reasonable and proportionate to the desired outcome		
g	Obtain and consider professional advice as may be required or appropriate		
h	Ensure best value		
i	Have regard to the Council's Constitution and relevant policies, rules and procedures		
j	Having regard to the rules of natural justice		
k	Comply with all relevant legislation including but not limited to as regards human rights and the public sector equality duty		

1. Signed.....Name.....Date.....

2. Signed.....Name.....Date.....

3. Signed.....Name.....Date.....

4. Signed.....Name.....Date.....

5. Signed.....Name.....Date.....