



Broxtowe  
Borough  
COUNCIL

# **Broxtowe Borough Council**

## **CONSTITUTION**

**As adopted on 19 October 2016**

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# **Broxtowe Borough Council Constitution**

**Document No. 1 – Introduction**

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# **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 8,028 hectares, two thirds of which is greenbelt, and has a population of 109,487 (2011 census). This figure represents 10.6% 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 govern 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. That issue is 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 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

4.1 As of 11 May 2016 the Council adopted a committee system. All decisions of the Council are taken either at full Council involving all 44 elected members, or by the appropriate committee, of which, represented by a politically proportionate number of members. These committees are as follows:

- Policy and Performance Committee
- Finance Committee
- Housing Committee
- Jobs and Economy Committee
- Environment and Community Safety Committee
- Leisure, Parks and Cemeteries Committee
- Governance, Audit and Standards Committee
- Planning Committee
- Licensing and Appeals Committee
- Alcohol and Entertainments Committee and Sub-Committee
- Local Joint Consultative Committee
- Bramcote Bereavement Services Joint Committee

#### 4.2 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 standard committees. The Council has therefore established a Planning Committee to look after applications for planning permission and planning enforcement. A Licensing and Appeals Committee 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, except for those responsibilities conferred on the Council by the Licensing Act 2003 and the Gambling Act 2005. For these latter licensing matters, which cover liquor licensing and regulated entertainment as well as gaming, a separate Alcohol and Entertainments Committee has been established together with its sub-committees, which are known as 'panels'. The regulatory and quasi-judicial committees have special rules which follow principles of natural justice.

#### 4.3 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, which

has introduced and will keep under review codes of conduct for members and officers and ensure proper training is provided for their implementation. The Governance, Audit and Standards Committee, in partnership with the Monitoring Officer, will also examine cases where it is alleged that standards of conduct have not been maintained.

#### 4.4 General

There is a range of other bodies exercising Council functions. These include the Governance Audit and Standards Committee, the Housing Payments Committee and the Independent Remuneration Panel for Members' Allowances. More details of these and other bodies are contained in the Scheme of Delegation.

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 and its 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 committees should so far as possible meet in public. Those 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:

1. Introduction.
2. Council Procedure Rules.
3. Scheme of Delegation.
4. Financial Regulations:
  - a) Financial Regulations.
  - b) Financial Regulation – Contracts.

5. Codes of Conduct for:
  - a) Members
  - b) Officers
6. Good practice:
  - a) Probity in Planning: Code of Good Practice for the Planning Service.
  - b) Guidance for Councillor on Hospitality and Gifts.
  - c) Public Speaking at Development Control Committee.
7. a) Protocol for member/officer relations.
  - b) Guide for publicity and media relations.
8. Whistleblowing Charter.
9. Charter for consultation and relations with parish and town councils.
10. Management Structure.

# **Broxtowe Borough Council Constitution**

**Document No. 2 – Council Procedure Rules**

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## **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. elect a person to preside if the Mayor and Deputy Mayor of the Council are not present;
2. elect the Mayor of the Council;
3. elect the Deputy Mayor of the Council;
4. approve the minutes of the last meeting;
5. receive any announcements from the Mayor;
6. note the Leader of the Council, the Leader of the Opposition and the Leader of any other group;
7. 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);
8. 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);
9. 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. decide the allocation of seats to political groups in accordance with the political balance rules;
2. make appointments to outside bodies except where appointment to those bodies has been delegated by the Council;
3. appoint the Chairs and Vice-Chairs of committees;
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 and to speak and vote thereat provided that such nominated representatives may not be in attendance at the same meeting as their respective Leaders.

## 2. **Ordinary Meetings**

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 elect a person to preside if the Mayor and Deputy Mayor are not present;
- 2.2 approve the minutes of the last meeting;
- 2.3 receive any declarations of interest from members;
- 2.4 receive any announcements from the Mayor;
- 2.5 receive a report from the Leader and receive questions and answers on the report if any;
- 2.6 receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Mayor are relevant to the Council's functions (subject to 8.5);
- 2.7 business which, in the opinion of the Mayor or Chair, should be considered at the meeting as a matter of urgency;
- 2.8 receive petitions in relation to matters which in the opinion of the Director of Legal and Planning Services and Monitoring Officer are relevant to the Council's functions;
- 2.9 receive items referred from the Council's committees or questions from members on the business of the committees (other than those provided under Rule 10 but subject to the time constraints contained in Rule 10);
- 2.10 consider any other business specified in the summons to the meeting;
- 2.11 consider motions;
- 2.12 receive a presentation from the Youth Mayor (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 the Council's Standing Orders);
- 2.13 receive questions from councillors to those representing the Council on outside bodies;

- 2.14 deal with questions from councillors in accordance with Rule 10.
- 2.15 approve a programme of ordinary meetings of the Council for the year at an appropriate time;
- 2.16 Common Seal.

The Council meeting to consider the budget shall be limited to only that substantive item unless by agreement of the Mayor.

### 3. **Extraordinary Meetings**

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

The Director of Legal and Planning Services and Monitoring Officer may call Council meetings in addition to ordinary meetings and those listed below may request the Director of Legal and Planning Services and Monitoring Officer to call additional Council meetings:

1. the Council by resolution;
2. the Mayor of the Council;
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 days of the presentation of the requisition;
4. the Chief Executive or Section 151 Officer.

#### 3.2 **Business**

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 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 Meetings**

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

The time and place of meetings will be determined by the Director of Legal and Planning Services and Monitoring Officer 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, or where an item of business considered as opposition priority business has been considered for not less than half an hour, whichever is later, a member of the Council may move without comment, 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.
- 4.2.2 If there are other motions or recommendations on the agenda that remain to be dealt with they either be deferred to the next meeting or will be deemed formally moved and seconded (together with any amendments). No speeches will be allowed on these items and the vote will be taken in the usual way.
- 4.2.3 During the process set out in paragraphs 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 Rule 13.8, that a particular Rule be suspended under Rule 21.1 or that a matter be delegated to a committee or sub-committee for decision or report under Rule 12.
- 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**

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 days before a meeting, the Chief Executive will send a summons signed by him/her 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**

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**

The quorum of a meeting will be one quarter of the whole number of councillors. 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 he/she does 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 may ask one question 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 Director of Legal and Planning Services and Monitoring Officer no later than midday three 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 Director of Legal and Planning Services and Monitoring Officer may reject a question if it:

1. is not about a matter for which the Council has a responsibility or which affects the Borough;
2. is defamatory, frivolous or offensive;
3. is substantially the same as a question which has been put at a meeting of the Council in the past six months;
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**

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 a committee**

Unless the Mayor decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the appropriate 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 citizen wishes to present a petition to a Council meeting, notice must be given at least 9 clear days before the meeting and have over 1,000 signatures. 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 three minutes 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.

9.2.3 The Council will decide how to respond to the petition at the meeting. Such response may include:

1. take the action the petition requests;

2. not to take the action requested;
3. or commission further investigation into the matter by the relevant Committee;
4. 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 Director of Legal and Planning Services and Monitoring Officer may reject a petition if it:

1. is vexatious, abusive or otherwise inappropriate;
2. relates to a planning decision;
3. relates to a licensing decision;
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;
5. requires the disclosure of confidential or exempt information;
6. is outside of the Council's scope of business.

## 10. **Questions by Members**

### 10.1 **On reports of the committees**

10.1.1 At a meeting of the Council, other than the Annual meeting, a member of the Council may ask the Leader or the Chair of a committee any question without notice upon an item of the report of a committee when that item is being received or under consideration by the Council.

10.1.2 Each member shall be limited to five minutes for their question;

10.1.3 The total time permitted for members' questions will be 1 hour;

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

Subject to Rule 10.4, a member of the Council may ask:

1. the Mayor;
2. the 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.

### 10.3 **Questions on notice at committees and sub-committees**

Subject to Rule 10.4, a member of a committee or sub-committee may ask the Chair of it a question on any matter in relation to which the Council has powers or duties or which affects the Borough and which falls within the terms of reference of that committee or sub-committee.

### 10.4 **Notice of questions**

A member may ask a question under Rule 10.2 or 10.3 if either:

1. they have given notice of the question in writing or by electronic mail no later than midday two working days before the day of the meeting to the Director of Legal and Planning Services and Monitoring Officer; or
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 Director of Legal and Planning Services and Monitoring Officer by 12 noon on the day of the meeting.

### 10.5 **One question per member**

A member may ask only one question under Rule 10.2 or 10.3 except with the consent of the Mayor of the Council, Committee or Sub-Committee other than under rule 10.8.

### 10.6 **Order of questions**

Questions of which notice has been given under Rule 10.2 or 10.3 will be listed on the agenda in the order determined by the Mayor of the Council. Content of questions

Questions under Rule 10.2 or 10.3 must, in the opinion of the Mayor relate to matters on which the Council has or may determine a policy.

### 10.7 **Response**

An answer may take the form of:

1. a direct oral answer at the meeting;

1. where the desired information is in a publication of the Council or other published work, a reference to that publication; or
3. where the reply cannot conveniently be given orally, a written answer circulated within 10 working days to the questioner.

#### 10.8 **Supplementary question**

A member asking a question under Rule 10.2 or 10.3 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.

#### 10.9 **Length of speeches**

A member asking a question under Rule 10.2 or 10.3 and a member answering such a question may speak for no longer than five minutes unless the Mayor consents to a longer period.

#### 10.10 **Ward matters**

A member may speak on ward matters if either:

1. they have given notice in writing or by electronic mail no later than midday two working days before the day of the meeting to the Director of Legal and Planning Services and Monitoring Officer; or
2. 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 Director of Legal and Planning Services and Monitoring Officer by 12 noon on the day of the meeting.

#### 10.11 **One question per member**

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

#### 10.12 **Order of ward matters**

Speeches on ward matter of which notice has been given under Rule 10.10 will be listed on the agenda in the order determined by the Mayor of the Council.

#### 10.13 **Length of speeches**

A member speaking on ward matters may speak for no longer than five 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 Director of Legal and Planning Services and Monitoring Officer not later than 5.00pm on the seventh working day 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 motions submitted under this Rule shall not, without the consent of the Council, exceed 30 minutes. At the conclusion of the speech being delivered at the expiry of 30 minutes (or such longer period to which the Council has consented) from the commencement of the Council's consideration of the first such 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:

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);
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
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**

The following motions may be moved without notice:

1. to appoint a Chair of the meeting at which the motion is moved;
3. in relation to the accuracy of the minutes;
4. to change the order of business in the agenda;
5. to refer something to an appropriate body or individual;
6. to appoint a committee or member arising from an item on the summons for the meeting;
7. to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
8. to withdraw a motion;
9. to amend a motion;
10. to proceed to the next business;
11. that the question be now put;
12. to adjourn a debate;
13. to adjourn a meeting;
14. to suspend a particular Council Procedure Rule;
15. to exclude the public and press in accordance with the Access to Information Procedure Rules;
16. to not hear further a member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4; and
17. to give the consent of the Council where its consent is required by this Constitution.

## 13. **Rules of Debate**

### 13.1 **No speeches until motion seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

### 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 him/her before it is discussed.

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

When seconding a motion or amendment, a member 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 five minutes without the consent of the Mayor.

13.4.3 Subject to paragraph 13.4.4 below, speeches by other members may not exceed five minutes without the consent of the Mayor.

13.4.4 When the Council's annual budget is under discussion, the Leader of each political group on the Council may speak for up to five minutes or such longer period as the Mayor shall allow.

### 13.5 **When a member may speak again**

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

1. to speak once on an amendment moved by another member;
2. to move a further amendment if the motion has been amended since he/she last spoke;
3. if their first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
4. in exercise of a right of reply;
5. on a point of order; and
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 is not to negate the motion.

13.6.2 There will be a single debate on the motion and any amendments.

13.6.3 At the conclusion of the winding-up speeches, votes will be taken on amendments in the order determined by the Mayor then a vote will be taken on the substantive motion. (With any approved amendment previously carried).

### 13.7 **Alteration of motion**

13.7.1 A councillor may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion. (Without adoption).

13.7.2 A councillor may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. (Without objection).

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

### 13.8 **Withdrawal of motion**

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

### 13.9 **Right of reply**

13.9.1 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 If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

13.9.3 The mover of the amendment has no right of reply to the debate on their amendment.

### 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:

1. to withdraw a motion;
2. to amend a motion;
3. to proceed to the next business;
4. that the question be now put;
5. to adjourn a debate;
6. to adjourn a meeting;
7. to exclude the public and press in accordance with the Access to Information Procedure Rules; and
8. to not hear further a member 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, he/she 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, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting their 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, he/she will put the

procedural motion to the vote without giving the mover of the original motion the right of reply.

#### 13.12 **Point of order**

A point of order is a request from a member to the Mayor to rule on an alleged irregularity in the procedure of the meeting. A member 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 member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final.

#### 13.13 **Personal explanation**

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the 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 six months cannot be moved unless the notice of motion is signed by at least ten members.

#### 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 six months cannot be moved unless the notice of motion or amendment is signed by at least ten members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six 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 five members present at the meeting 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 where a request by two 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 two people nominated for any position to be filled and there is not a clear majority of votes in favour of one 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 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**

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**

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Rule 20 (Disturbance by Public).

### 19. **Members' Conduct**

#### 19.1 **Speaking at meetings**

When a Member speaks at full Council he/she 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 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 Council Procedure Rules**

### 21.1 **Suspension**

All of these Council Procedure Rules except Rule 15.5 and 16.2 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. Suspension can only be for the duration of the meeting.

### 21.2 **Amendment**

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

## 22. **Application to Committees and Sub-Committees**

All of the Council Procedure Rules apply to meetings of full Council. Only Rules 4 - 7, 10 - 21, apply to meetings of Committees and Sub-Committees. Rule 7 does not apply to meetings of Working Groups.

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

23.1 Subject to any other restrictions elsewhere in the Constitution, any Member of the Council will be permitted to act as a substitute on a Council Body, subject to meeting the training requirements.

- 23.2 The Director of Planning and Legal Services and Monitoring Officer may consider a request from a Member of a Council Body to appoint a substitute Member, providing that substitute Member is from the same political group.
- 23.3 In order to be eligible to sit as substitutes on regulatory or quasi-judicial Committees or Standards issues or panels or staff appointments or disciplinary bodies established by the Council, Members must have received formal training in relevant procedures and the law.
- 23.4 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.
- 23.5 Substitute Members may attend meetings in that capacity only:
- 23.5.1 to take the place of the ordinary Member for whom they are designated substitute;
  - 23.5.2 where the ordinary Member will be absent for the whole of the meeting;

## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. Scope**

- 1.1 Subject to paragraph 1.2 below, these rules apply to all meetings of the Council and Regulatory Committees (together called meetings).
- 1.2 Where the Governance, Audit and Standards Committee is convened to consider or review, as the case may be, an allegation that a Member has contravened the Council's Code of Conduct for Members, the provisions set out in the Governance, Audit and Standards Committee's Procedure for Local Assessment of Complaints shall apply.

### **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 and the Data Protection Act 1998.

### **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 Mayor may warn him/her. If he/she continues the interruption and a warning has been given, the Mayor may order his/her 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 Mayor may order that part to be cleared.
- 3.4 If the Mayor considers the orderly dispatch of business impossible, he/she may without question adjourn the meeting.
- 3.5 The above powers of the Mayor are in addition to any other power vested in him/her.

### **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 Town Hall, 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 Any member shall have access to full copies of the agenda and reports including exempt and/or confidential information.
- 5.2 The Council will make copies of the agenda and reports that are open to the public available for inspection at the designated office and available on the website at least five clear working 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 Director of Legal and Planning Services and 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:**

1. any agenda and reports which are open to public inspection;
2. any further statements or particulars necessary to indicate the nature of the items in the agenda; and
3. if the Director of Legal and Planning Services and 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**

- 7.1 The Council will make available copies of the following for six years after a meeting:
1. the minutes of the meeting or records of decisions taken, (together with reasons), for all meetings, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
  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;

3. the agenda for the meeting; and
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 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:

1. disclose any facts or matters on which the report or an important part of the report is based; and
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), and in respect of executive reports, the advice of a political assistant.

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

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

## 9. **Summary of Public's Rights**

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and made available to the public at the Town Hall, Foster Avenue, Beeston, Nottingham, NG9 1AB.

## 10. **Exclusion of Access of the Public to Meetings**

### 10.1 **Extent of exclusion**

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

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

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

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

10.3 **Exempt information – discretion to exclude public**

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

10.4 **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.

10.5 **Meaning of exempt information**

Exempt information means information falling within the following categories listed in the table below (subject to any qualification).

[NOTE Information falling within any of paragraphs 1 – 7 is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.]

Category	Qualification	Interpretation
1. Information relating to any individual.	The exemption applies only 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 (see note on public interest at the end of the table).	
2. Information which is likely to reveal the identity of an individual.	The public interest test qualification applies, as in 1 above.	
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>The public interest test qualification applies, as in 1 above.</p> <p>"Financial or business affairs" includes contemplated, as well as past or current, activities. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under -</p> <ul style="list-style-type: none"> <li>• the Companies Act 2006;</li> <li>• the Friendly Societies Act 1974;</li> <li>• the Friendly Societies Act 1992;</li> <li>• the Industrial and Provident Societies Acts 1965 to 1978;</li> <li>• the Building Societies Act 1986 ["registered" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act)]; or</li> </ul>	<p>Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.</p> <p>"person" includes any public authority, company, or other legally constituted organisations and the partners in a partnership or firm.</p>

Category	Qualification	Interpretation
	<ul style="list-style-type: none"> <li>the Charities Act 2011.</li> </ul>	
4. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	The public interest test qualification applies, as in 1 above.	
5. Information which reveals that the authority proposes- <ul style="list-style-type: none"> <li>to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li>to make an order or direction under any enactment.</li> </ul>	The public interest test qualification applies, as in 1 above.	Any reference to "the authority" is a reference to the Council or, as the case may be, the Committee or Sub-Committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined. "person" includes any public authority, company, or other legally constituted organizations and the partners in a partnership or firm.
6. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	The public interest test qualification applies, as in 1 above.	
<b>Exempt information relating to the Governance, Audit and Standards Committee and any Sub-Committee thereof ONLY</b>		
7. Information which is the subject to any obligation of confidentiality.	The public interest test Qualification applies, as in 1 above.	
8. Information which relates in any way to matters concerning national security.	The public interest test qualification applies, as in 1 above.	
<b>9. Information presented to the Governance, Audit and Standards Committee or a Sub-Committee of the Committee set up to</b>	The public interest test qualification applies, as in 1 above.	

Category	Qualification	Interpretation
<p><b>consider any matter under regulation 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000.</b></p>		

**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 Director of Legal and Planning Services and 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 **Council** 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.

## **SCOPE OF ARRANGEMENTS AND DELEGATIONS**

### **1. Council's Terms of Reference**

- 1.1 Some functions must be carried out by the full Council. Those functions retained by full Council are set out at section 8 of this scheme. In addition, there are a number of miscellaneous bodies which administer the Council's business. They are dealt with in section 9 onwards.

### **2. Committees**

- 2.1 Terms of Reference of various committees are contained below.

### **3. Regulatory and Quasi-judicial Committees and the Governance, Audit and Standards Committee**

- 3.1 These committees will carry out functions of a quasi-judicial nature. There are three such committees: Planning Committee, Licensing and Appeals Committee and the Alcohol and Entertainments Committee, where the committee has power to decide whether to grant or refuse a benefit or issue a penalty. Special legal rules of fairness and procedure apply to the meetings of such committees.
- 3.2 The Governance, Audit and Standards Committee has powers to recommend codes of conduct for members and officers and to ensure training takes place to secure good practice. It has certain responsibilities under the Localism Act 2011 in respect of parish and town councils within the Borough. The Governance, Audit and Standards Committee also has the power to grant dispensations in connection with the declaration of members' interests.
- 3.3 Whilst many of the functions exercised by the regulatory committees are conferred directly by statute rather than by delegation from the Council as the committees' parent body, both kinds of derivation are dealt with together for the sake of completeness.

### **4. Working Groups**

- 4.1 The Council has established several operational Working Groups. These are internal meetings whose minutes and agendas are not subject to the statutory rules that bind the other more formal committees of the Council. These meetings are held in private although the documentation may subsequently be published if requested. These committees cannot make decisions in their own name nor can they make recommendations to the decision-making bodies of the Authority in their own name.
- 4.2 The meetings held in this way are the:

- Local Joint Consultative Committee
- Energy Efficiency Working Group

- Computer Working Group
- Equalities Working Group
- Housing Performance Group

## **5. Other bodies**

5.1 In addition certain other bodies operate under the umbrella of the Council's organisation. These include the Local Joint Consultative Committee, the Bramcote Bereavement Services Joint Committee and the Independent Remuneration Panel. Whilst these bodies do not always exercise delegated powers, they are referred to here for the sake of completeness.

## **6. Officers**

6.1 These rules define the functions which the Council requires officers to carry out on its behalf. These officers' powers have to be listed by law. The functions are set out as "Officer Delegations". This Constitution also identifies those officers who act as Head of Paid Service (Chief Executive), Monitoring Officer (Director of Legal and Planning Services) and the Chief Financial Officer (Deputy Chief Executive) who receive powers and duties directly under relevant legislation, as well as delegated by these rules. Where the context permits, 'Director' in this Scheme of Delegation includes the Chief Executive and Deputy Chief Executive.

## **7. General Provisions**

7.1 All aspects of these rules are subject to the Council's financial regulations. These rules shall be read and interpreted so as to comply with all relevant laws applying at the relevant time.

7.2 Except where otherwise expressly provided, decisions taken by the committees and officers shall be in accordance with policy already approved by the Council and committees. Expenditure involved shall be incurred only where provided for in annual estimates or by way of a supplementary estimate.

7.3 In addition to any specific power to authorise proceedings, each committee has authority generally to institute such legal proceedings as may be required for the enforcement of any of the matters delegated to it or to officers or in respect of the contravention of such matters.

7.4 All functions of committees and officers are exercised and performed on behalf of and in the name of the Council and acts and proceedings thereunder are the acts and proceedings of the Council. As far as the committees are concerned the exercise of such functions is indicated by the prefix 'RESOLVED' before the minute.

7.5 A reference to an Act of Parliament or Regulations in these rules includes a reference to any amendment of or replacement to that Act or Regulations, any

consolidating re-enactment of it and any subordinate legislation made under that Act.

7.6 Any reference in this Scheme to the service or issue of a notice includes receiving and considering representations on it, and where necessary withdrawing, revoking, amending or re-serving it, taking legal proceedings to enforce it and carrying out work or other acts in default of compliance with it (including the seeking and acceptance of tenders) and recovery of the costs of so doing.

7.7 For the avoidance of doubt it is confirmed that:

- (i) any reference in this Scheme to a named officer includes any officer who may at any time succeed to or carry out the relevant functions of that named officer (whether as a result of department reorganisation, change of post title or otherwise)
- (ii) a named officer or successor under paragraph (i) of this clause may arrange for a function delegated to that officer to be performed by any other officer in the name of the officer to whom the function was delegated by this scheme.

7.8 For the avoidance of doubt it is confirmed that:

- (i) any matter delegated in this scheme to an officer is also a function of the Council or appropriate committee from which the officer derived the powers in question;
- (ii) any power delegated in this scheme to the Director of Legal and Planning Services (other than which is by law conferred on the Monitoring Officer) or the Director of Housing, Leisure and Property may also be performed by the Chief Executive; and any power delegated in this scheme to the Head of Neighbourhoods and Prosperity may also be performed by the Director of Legal and Planning Services;
- (iii) unless otherwise indicated or apparent from their contexts, all decisions are to be made in the name of the Council, e.g. that the Council grants a permission with or without conditions, or refuses permission.
- (iv) Each Director/Head of Service and any officer nominated by them has the power as necessary to require information as to ownership, occupation of and the use of and interest in land under section 16 Local Government (Miscellaneous Provisions) Act 1976 or any other statutory enactment in relation to the exercise of the Council's statutory powers and duties;
- (v) Each Director/Head of Service and any officer nominated by them has the power to enter land under any enactment for the purposes of inspection in relation to the exercise of the Council's or the Committees' statutory powers and duties;

- (vi) Officers are not empowered to deviate from the approved policies of the Council;
- (vii) The Leader of the Council and the Chairs of Committees (in the case of matters within the responsibility of that committee) and the Chief Executive (in either case) has each the power to require an officer not to exercise delegated powers in any cases, but to report to the Committee as appropriate;
- (viii) Officers shall report to members via the appropriate Committee or otherwise a summary of decisions taken in accordance with delegated powers with regard to the performance of statutory functions if requested to do so by the Council or Committee;
- (ix) Officers shall not exercise their delegated powers if so instructed by the Chief Executive with the exception of the powers vesting in the Section 151 Officer and Monitoring Officer by statute;
- (x) Officers may refer any matter within their delegated functions to the Council or appropriate Committee;
- (xi) Directors have general powers of management over their department, including matters of appointment, discipline and dismissal of employees, subject to the relevant conditions of service and including purchase of goods and services within their departmental budget;
- (xii) Directors have the power in consultation with the Leader of the Council or other appropriate Chair to respond to any government, local authority or other consultation within the remit of the chief officer and the member;
- (xiii) The power to authorise investigations under the Regulation of Investigatory Powers Act 2000 in accordance with the relevant Policy subject to gaining approval from the Magistrates Court. The Director of Legal and Planning Services is delegated the functions of maintaining a central register for the purposes of the Act and taking such action as necessary to ensure the Council complies with its duties under the legislation.

7.9 The Director of Legal and Planning Services and any officer nominated by him/her has the power, either at the request of another chief officer or otherwise, to administer a formal caution or other such measure as is available to any offender in substitution for the institution of criminal proceedings, arising from any offence committed under any legislation for which the Council is the enforcing authority (either as principal or agent).

7.10 The Chief Executive is granted the power to perform any function not referred to in this scheme, either by way of omission or bestowed upon the Council subsequently to the adoption of this scheme and to arrange for the function to be carried out by any officer of the Council in the Chief Executive's name.

7.11 Each Director has power to:

- (i) submit applications under the Town and Country Planning General Regulations 1992 for development proposals for which they have responsibility;
- (ii) give notice regarding proposed works of demolition for which they have responsibility.
- (iii) Delegate further any responsibility delegated to them in this Scheme of Delegation.

## **8. Functions reserved to full Council**

8.1 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 scheme, Broxtowe Borough Council arranges for the discharge of all its functions by the Committees of by Officers under this Scheme (other than those matters detailed in paragraph 8.2 below):

8.2 EXECPT functions which the Council reserves to itself namely:

- i. Consideration of reports by the Head of Paid Services under Section 4(5) of the Local Government and Housing Act 1989;
- ii. The election of the Mayor of the Council under S.4 of the Local Government Act 1972;
- iii. The appointment of the Deputy Mayor of the Council under S.5 of the Local Government Act 1972;
- iv. 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;
- v. Determination or variation of the Council's affordable borrowing limit under Section 3 of the Local Government Act 2003;
- vi. Appointing and Discharging the Leader of the Council by resolution;
- vii. Noting the appointment of the Leader and Deputy Leader of the Opposition and the Leader and Deputy Leader of any other political group;
- viii. Approval or adoption of amendment of the following policy documents:
  - a) The Council's Constitution including Standing Orders;
  - 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;
- ix. The making of byelaws;
  - x. The promotion or adoption of an Act of Parliament;
  - xi. The receipt of petitions;
  - xii. The appointment and dismissal of the Chief Executive, Monitoring Officer, Chief Financial Officer and other chief officers;
  - xiii. the adoption and amendment of the Councillor's allowance scheme;
  - xiv. Determining or delegation of any matter of function within the remit of the Council not delegated or performed elsewhere under this scheme;
  - xv. 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;
  - xvi. Appointment to outside bodies;
  - xvii. 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;
  - xviii. Pay Policy.

## **POLICY AND PERFORMANCE**

- 1.1 To keep the Council's policies (including its Constitution) under review.
- 1.2 To approve and monitor progress on the Corporate Plan.
- 1.3 To propose changes to the Constitution and other policies approved or adopted by the Council.
- 1.4 Monitor the impact of significant external projects on the Council's services.
- 1.5 To determine attendance of members at conferences.
- 1.6 To determine responses on behalf of the Council to any government, local authority or other consultation on matters within the remit of the Committee.
- 1.7 To develop, adopt and implement any other policy (other than those policy documents reserved to the full Council or within the remit of any other committee) and without prejudice to the generality of the foregoing to develop, adopt and implement:
  - (i) the Emergency Plan
  - (ii) the information technology strategy
  - (iii) asset management strategy
  - (iv) the People Strategy
  - (v) the Capital Strategy
  - (vi) And other such strategies as Council may from time to time decide should be adopted.
- 1.8 To acquire, appropriate and dispose of land or property and of interests in or over land
- 1.9 To let, negotiate and settle leases and rents for Council owned land or property
- 1.10 To approve and amend as necessary the establishment structure of the Council within the Budget Policy Framework.
- 1.11 To approve policies with regard to the Council's land, buildings and assets.
- 1.12 To authorise the making of compulsory purchase orders and carry out all procedures relating thereto.

- 1.13 Identify opportunities for future income generation and cost savings.
- 1.14 Examine further procurement and collaborative working opportunities with the private sector and other local authorities.
- 1.15 To receive reports in relation to the performance of the Council against Corporate Plan targets.
- 1.16 To receive the minutes of the Computer Working Group
- 1.17 To receive the minutes of the Member Training and Development Working Group.
- 1.18 To provide strategic direction to any delivery body established by the Council to fulfil the purposes over which the Committee has responsibility.
- 1.19 Issues relating to the Council's structure and employees.
- 1.20 To receive recommendations from the Local Joint Consultative Committee.
- 1.21 To receive and make determination in respect of performance.
- 1.22 To deal with matters delegated to any other Committee.
- 1.23 To approve the letting of contracts to third parties where the value of the contract exceeds delegation limits as set out in procurement standing orders. (Where within Budget).
- 1.24 To receive the minutes of the Equalities Working Group.

## **FINANCE AND RESOURCES**

- 1.1 To keep the Council's resources under review.
- 1.2 To consider and recommend to the Council the level of council house rents and the level of council tax.
- 1.3 To consider and recommend to the Council the overall capital programme and revenue budget.
  - i) To approve requests for supplementary capital and revenue estimates
  - ii) To write off debts in excess of the current limit for delegation contained within Financial Regulations
  - iii) To make loan repayments postponements
  - iv) To determine the use of the Insurance Fund
  - v) To appoint the Council's bankers
  - vi) To approve virement between budget heads above any limits prescribed in Financial Regulations
  - vii) To approve the letting of contracts to third parties where the value of the contract exceeds delegation limits as set out in procurement standing orders.
- 1.4 To determine the means to attract external sources of funding into the Borough across the whole range of the Council's functions.
- 1.5 To determine attendance of members at conferences.
- 1.6 To make grants to individuals and bodies including those undertaking twinning visits and exchanges in accordance with the Council's approved policy.
- 1.7 To determine responses on behalf of the Council to any government, local authority or other consultation on matters within the remit of the Committee.
- 1.8 To determine and approve purchases of Information Technology equipment and assistance within the Budget Policy Framework.
- 1.9 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.
- 1.10 Examine in detail the proposals for budget savings and consider such plans as are deemed to be required to bring about those savings including the effects on employees and services.

- 1.11 Receive at regular intervals information as to revenue and capital budget monitoring.
- 1.12 Receive and respond to updates on government and external funding issues which have a direct effect on the budget position.
- 1.13 Receive regular updates on welfare benefit reforms and the effects on council tenants and council tax payers.
- 1.14 Monitor the effects of the countywide business rates pooling arrangement on the finances of the Council.
- 1.15 Identify opportunities for future income generation and cost savings.
- 1.16 To provide strategic direction to any delivery body established by the Council to fulfil the purposes over which the Committee has responsibility.
- 1.1 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;

## **HOUSING**

- 1.1 To determine Council policy relating to sales of council houses.
- 1.2 To determine Council policy relating to council house rent collection.
- 1.3 To provide assistance to housing associations - Housing Association Act 1985 Part X.
- 1.4 To provide financial assistance for privately let housing accommodation - Local Government Act 1988 Part III.
- 1.5 To make payments to assist tenants to obtain other accommodation - Housing Act 1988 Section 129.
- 1.6 To declare renewal areas - Local Government and Housing Act 1989 Part VII.
- 1.7 Approval of discretionary renovation grants - Part VIII.
- 1.8 To determine the improvement programme of the Council housing stock.
- 1.9 To approve housing schemes.
- 1.10 To authorise proceedings for the repayment of renovation grants and interim payments and to accept waiver of repayment or a lesser sum.
- 1.11 To determine the policy to apply to the provision of funds for aids and adaptations to Council properties.
- 1.12 To develop, adopt and implement any other policy (other than those policy documents reserved to the full Council) and without prejudice to the generality of the foregoing to develop, adopt and implement:
  - (i) Homelessness Strategy
  - (ii) To determine policies for the management of all buildings and lands held for housing purposes.
  - (iii) To determine the policy for allocating Council housing stock.
  - (iv) And other such strategies as Council may from time to time decide should be adopted.
- 1.13 To determine responses on behalf of the Council to any government, local authority or other consultation on matters within the remit of the Committee.
- 1.14 To determine attendance of members at conferences.
- 1.15 Consider ways of achieving reductions in ongoing financial commitments through a review of essential and desirable services and service levels.
- 1.16 Identify opportunities for future income generation and cost savings.

- 1.17 The Housing Committee exercises all the Council's appellate functions from officer decisions in respect of discretionary housing payments as well as reviewing the Council's expenditure on the Discretionary Housing Payments Fund and monitoring the Council's expenditure on aids and adaptations to council housing.
- 1.18 The Housing Committee will also be responsible for determining any applications for aids and adaptations to council housing above £10,000.
- 1.19 Specific functions are delegated to the Housing Sub-Committee ("Panel") as follows:
- i. The Sub-Committee (known as Panel) comprises any combination of three members of the main Committee.
  - ii. The Panel is delegated all the functions capable of being exercised by a Sub-Committee under 9.1 and 9.2.
- 1.20 To receive the minutes of the Housing Performance Group.
- 1.21 To receive the minutes of the Housing Payments Sub-Committee.
- 1.22 To provide strategic direction to any delivery body established by the Council to fulfil the purposes over which the Committee has responsibility.
- 1.23 To deal with matters delegated to any other Committee.
- 1.24 To approve the letting of contracts to third parties where the value of the contract exceeds delegation limits as set out in procurement standing orders (where within budget).

## **JOBS AND ECONOMY**

- 1.1 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.
- 1.2 To authorise the making of conservation areas.
- 1.3 To authorise supplementary planning documents, development briefs and other documents under the local development scheme.
- 1.4 To authorise directions under Article 4 Town and Country Planning (General Permitted Development) Order 1995.
- 1.5 To authorise the making of compulsory purchase orders and carry out all procedures relating thereto.
- 1.6 To perform the functions of the Council under the Planning and Compulsory Purchase Act 2004 capable of being exercised by a Committee.
- 1.6 To determine attendance of members at conferences.
- 1.7 To determine responses on behalf of the Council to any government, local authority or other consultation on matters within the remit of the Committee.
- 1.8 To develop, adopt and implement any other policy (other than those policy documents reserved to the full Council or within the remit of any committee) and without prejudice to the generality of the foregoing to develop, adopt and implement:
  - i. Economic Development Strategy
  - ii. And other such strategies as the Committee may from time to time decide should be adopted
- 1.11 To determine the means to attract external sources of funding into the Borough across the whole range of the Council's functions.
- 1.12 Identify opportunities for future income generation and cost savings.
- 1.13 Examine further procurement and collaborative working opportunities with the private sector and other local authorities.
- 1.14 The Committee will have responsibility for considering 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.

- 1.15 The Committee will have authority to involve others in this process including site owners, the general public, the Nottingham City Council, the Nottinghamshire County Council, HS2 Limited and any other persons who may be able to assist in considering options for the site.
- 1.16 The Committee will have responsibility for considering all matters relating to the redevelopment of the Stapleford area focussing on the site of the former Police Station together with other land in the area that is within the Council's ownership.
- 1.17 The Committee will be responsible for appropriate ways to progress the redevelopment, including consultation with the public and other stakeholders.
- 1.18 To provide strategic direction to any delivery body established by the Council to fulfil the purposes over which the Committee has responsibility.
- 1.19 To approve the letting of contracts to third parties where the value of the contract exceeds delegation limits as set out in procurement standing orders. (Where within budget).

## **COMMUNITY SAFETY COMMITTEE**

- 1.1 To develop, adopt and implement any other policy (other than those policy documents reserved to the full Council or within the remit of any committee) and without prejudice to the generality of the foregoing to develop, adopt and implement:
  - i. policies regarding transport, save those functions in respect of hackney carriage and private hire vehicles delegated to the Licensing and Appeals Committee.
  - ii. policies in respect of stray dogs.
  - iii. contaminated land strategy.
  - iv. And other such strategies as the Committee may from time to time decide should be adopted
  - v. ASB Strategy
  - vi. Community Safety policies
  - vii. Safeguarding policies
  - viii. LSP strategies and policies
  - ix. Public protection strategies
  - x. Strategies and policies arising from the Anti-Social Behaviour, Crime and Policing Act 2014
  - xi. Policies under the Scrap Metal Dealers Act 2013
- 1.2 To authorise applications for vehicle operator's licences required for the Council's business; to authorise objections to vehicle operator licence applications made by third parties.
- 1.3 To determine enforcement under the Sunday Trading Act 1994
- 1.4 To determine all issues relating to community safety and crime reduction.
- 1.5 To develop, monitor and implement the Sustainable Community Strategy and associated documents.
- 1.6 Consider ways of achieving reductions in ongoing financial commitments through a review of essential and desirable services and service levels.
- 1.7 Identify opportunities for future income generation and cost savings.
- 1.8 Examine further procurement and collaborative working opportunities with the private sector and other local authorities.
- 1.9 To determine attendance of members at conferences.
- 1.10 To determine responses on behalf of the Council to any government, local authority or other consultation on matters within the remit of the Committee.
- 1.11 To receive reports in relation to Nottinghamshire Police and Crime Panel.

- 1.12 To receive the minutes of the South Nottinghamshire Community Safety Partnership.
- 1.13 To provide strategic direction to any delivery body established by the Council to fulfil the purposes over which the Committee has responsibility.
- 1.14 To approve the letting of contracts to third parties where the value of the contract exceeds delegation limits as set out in procurement standing orders. (where within budget).

## **LEISURE AND ENVIRONMENT COMMITTEE**

- 1.1 To determine policies to promote artistic, sporting and cultural activities within the Borough.
- 1.2 To develop, adopt and implement any other policy (other than those policy documents reserved to the full Council or within the remit of any Committee) and without prejudice to the generality of the foregoing to develop, adopt and implement:
  - i. To determine policies for the management of all buildings and lands held for leisure purposes including leisure centres and museums.
  - ii. equalities strategy.
  - iii. the Arts and Events and Leisure strategies.
  - iv. Policies for car parking, allotments and cemeteries
  - v. management and recycling arrangements and policies.
  - vi. policies in respect of street cleansing and the removal of litter.
  - vii. policies regarding energy.
  - viii. Energy Conservation Strategy.
  - ix. Waste Management Strategy.
- 1.3 To organise and implement twinning and friendship activities.
- 1.4 To receive the minutes of the Equalities Working Group.
- 1.5 To provide strategic direction to any delivery body established by the Council to fulfil the purposes over which the Committee has responsibility.
- 1.6 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;
- 1.7 To approve the letting of contracts to third parties where the value of the contract exceeds delegation limits as set out in procurement standing orders. (where within budget).
- 1.8 To determine attendance of members at conferences.
- 1.7 To authorise applications for and amendments to waste transfer stations.
- 1.8 To approve in principle events taking place in parks, open spaces and recreation grounds owned or managed by the Council.
- 1.9 Functions under the Environmental Protection Act 1990.
- 1.10 To determine all issues relating to environmental improvements.
- 1.11 To receive the minutes of the Energy Efficiency Working Group.

1.12 Identify opportunities for future income generation and cost savings.

1.13 Examine further procurement and collaborative working opportunities with the private sector and other local authorities.

## **GOVERNANCE, AUDIT AND STANDARDS**

1.1 To determine attendance of members at conferences.

1.2 To determine responses on behalf of the Council to any government, local authority or other consultation on matters within the remit of the Committee.

1.3 The functions conferred in relation to standards of conduct by the Local Government Act 2000, the Localism Act 2011 and associated legislation.

1.4 Without prejudice to the generality of the foregoing:

I. promoting and maintaining high standards of conduct for all members and officers

II. preparing for adoption or revision by the Council policies and codes of conduct for members, co-opted members and officers

III. monitoring the operation of the codes of conduct

IV. granting dispensations to members (including co-opted members) from requirements relating to interests set out in the Members' Code of Conduct

V. advising and training members, co-opted members and officers on matters relating to conduct

VI. undertaking the same duties as detailed above in respect of parish or town Councils within the Council's area

VII. considering, determining and dealing with matters referred by the Monitoring Officer

VIII. considering, determining and dealing with matters referred by the Chief Executive or Monitoring Officer under the Council's Whistleblowing Policy

IX. monitoring the complaints made against the Council including those made via the Ombudsman service

X. assessing (and reviewing if appropriate) all complaints made in respect of breaches of the Members' Code of Conduct.

1.5 The Committee will:

- (i) To oversee the arrangements for the maintenance of the Council's internal control environment
  - (ii) To monitor and make recommendations regarding the Council's corporate governance arrangements including the appointment of the external auditor
  - (iii) Consider ways of achieving reductions in ongoing financial commitments through a review of essential and desirable services and service levels.
  - (iv) Identify opportunities for future income generation and cost savings.
  - (v) Examine further procurement and collaborative working opportunities with the private sector and other local authorities.
- 1.6 Consider the Council's published financial accounts and associated documents, including the Annual Governance Statement, and give approval to them when satisfied;
- 1.7 Review the work of the internal audit section including the approval of an audit strategy and annual audit plans;
- 1.8 Consider significant issues arising from internal audit reviews, make recommendations accordingly and monitor management's response;
- 1.9 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;
- 1.10 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;
- 1.11 Monitor and review the Council's business continuity arrangements;
- 1.12 Consider the Council's arrangements for corporate governance and recommend necessary action to maintain best practice and to comply with the code of corporate governance;
- 1.13 Determine the discretionary elements of both national and local conditions of service;
- 1.14 Determine employment and health and safety policies;
- 1.15 The power to make payments or provide other benefits in cases of maladministration (section 92 Local Government Act 2000);

- 1.16 To receive reports directly from the Chief Internal Auditor as and when he/she thinks fit;
- 1.17 To receive reports directly from the Council's external auditors as and when appropriate.
- 1.18 The Committee may appoint Panels comprising of a proportionate combination of three or five members of the main Committee.
- 1.19 To determine responses on behalf of the Council to any government, local authority or other consultation on matters within the remit of the Committee.
- 1.20 Consider in detail polling district boundaries for the Borough Council's administrative area and any necessary changes to ensure that:
  - (i) electors have such reasonable facilities for voting as are practicable in the circumstances.
  - (ii) 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.
- 1.21 Consider polling places for the Borough Council's administrative area.
- 1.22 Consider the warding arrangements for Broxtowe to ensure electoral equality in all areas.
- 1.23 Consider the boundaries of parish councils in the Borough and warding arrangements in those areas, if appropriate.
- 1.24 Consider the names of Borough Council and parish council wards.

## **FUNCTIONS DELEGATED TO THE PLANNING COMMITTEE**

- 1.1 The functions of the Council relating to town and country planning and development control other where they are required to be exercised by full Council.
- 1.2 Without prejudice to the generality of the foregoing, the functions of the Council in the following areas:
- 1.3 In association with the Policy and Performance Committee to propose matters of planning policy to the Council in accordance with Part II of the Town and Country Planning Act 1990.
- 1.4 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.
- 1.5 The power to enter into agreements regulating the development and use of land including s106 agreements.
- 1.6 The power to grant conservation area consent and hazardous substances consent.
- 1.7 The power to require the discontinuance of a use of land.
- 1.8 The power to serve a completion notice under Section 94(2) Town and Country Planning Act 1990.
- 1.9 The Council's powers in respect of tree preservation.
- 1.10 The Council's development control and building control enforcement powers.
- 1.11 The power to create, stop up and divert footpaths and bridleways.
- 1.12 The functions detailed in Schedules 1 and 2 to The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 in respect of:
  - (i) town and country planning and development control;
  - (ii) footpaths and bridleways and other public rights of way;
  - (iii) trees and hedgerows.
- 1.13 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.

- 1.14 Enforcing section 224 Town and Country Planning Act 1990 (control of advertisements).
- 1.15 To authorise the making of conservation areas.
- 1.16 To authorise directions under Article 4 Town and Country Planning (General Permitted Development) Order 1995.
- 1.17 To determine attendance of members at conferences.
- 1.18 To determine responses on behalf of the Council to any government, local authority or other consultation on matters within the remit of the Committee.

## **FUNCTIONS DELEGATED TO THE LICENSING AND APPEALS COMMITTEE**

- 1.1 To determine attendance of members at conferences.
- 1.2 To determine responses on behalf of the Council to any government, local authority or other consultation on matters within the remit of the Committee.
- 1.3 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, grievance and disciplinary appeals, excluding all those functions conferred on the Council or on a licensing committee by the Licensing Act 2003 and the Gambling Act 2005.
- 1.4 Without prejudice to the generality of the foregoing the consideration and determination of applications for licences permits and registration not otherwise delegated.
- 1.5 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.
- 1.6 To make determinations in respect of the Scrap Metal Dealers Act 2013.

## **FUNCTIONS DELEGATED TO THE ALCOHOL AND ENTERTAINMENTS LICENSING COMMITTEE AND ITS SUB-COMMITTEES**

- 1.1 To determine attendance of members at conferences.
- 1.2 To determine responses on behalf of the Council to any government, local authority or other consultation on matters within the remit of the Committee.
- 1.3 All the functions of the licensing authority capable of being performed by a licensing committee established under section 6 Licensing Act 2003 and section 154 Gambling Act 2005, including (for the avoidance of doubt) the powers in section 212 Gambling Act 2005 (setting of fees).
- 1.4 The Committee may appoint Panels comprising of a proportionate combination of three or five members of the main Committee.
- 1.5 The panels are delegated all the functions capable of being exercised by a Sub-Committee.

## **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 Council, Governance, Audit and Standards Committee or any other appropriate committee.

## **FUNCTIONS PERFORMED BY THE INDEPENDENT REMUNERATION PANEL**

All the powers conferred on the panel by and under section 99(3B) Local Government Act 2000 in respect of members' pensions, allowances, expenses and gratuities.

**FUNCTIONS PERFORMED BY THE BRAMCOTE BEREAVEMENT SERVICES  
JOINT COMMITTEE**

As set out in the agreement with Erewash Borough Council.

## **FUNCTIONS PERFORMED BY THE ECONOMIC PROSPERITY COMMITTEE**

### **1. Purpose**

- 1.1 To bring together local authority partners in Nottingham and Nottinghamshire in a robust, formally constituted arrangement which will drive future investment in growth<sup>1</sup> and jobs in the City and County.

### **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:
- i) to prioritise and make decisions on the use of the funding that the EPC may influence or control;
  - ii) to review future governance requirements and delivery arrangements and how these can be best achieved in Nottingham and Nottinghamshire;
  - iii) to have direct oversight of key economic growth focussed projects and initiatives that the EPC has influence over the funding of or contributes to;
  - iv) to have strategic oversight of other key growth focussed 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.

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<sup>1</sup> As exercised through the D2N2 Local Enterprise Partnership. (LEP)

### **3. Remit**

#### **3.1 The remit of the EPC will be:**

- i) to act as a local public sector decision making body for strategic economic development, and to make recommendations to the D2N2 LEP on its investment and other priorities;
- ii) to prioritise, commission and monitor both investment plans and all European Structural Investment Funds (SIF), and Single Local Growth Fund money that is available to Nottingham and Nottinghamshire via the D2N2 LEP and the EPC;
- iii) to oversee the alignment of relevant local authority plans and ensure that they contribute to economic growth;
- iv) to actively engage with a range of businesses in Nottingham and Nottinghamshire in relation to the EPC's decision making, and to engage with other stakeholders where appropriate;
- v) to consider and advise on the appropriateness and viability of alternative, successor economic governance arrangements;
- vi) to ensure that potential benefits stemming from any overlaps with other LEPs are fully maximised.

### **4. Membership**

4.1 One member from each constituent authority (such member to be the Leader/Elected Mayor or other executive member or Committee Chairman 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 Chairman 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 Chairman 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 him/her, the relevant constituent authority

shall as soon as reasonably practicable appoint another voting member in his/her 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 Chairman of the constituent authority which appointed him/her, he/she 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 his/her 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 Chairman or the Secretary.
- 4.6 Co-options onto the Committee are not permitted.
- 4.7 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 Chairman 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.
- 4.8 Where an authority has previously terminated its membership of the EPC it may re-join the EPC with immediate effect on the same terms as existed prior to its departure, where the EPC agrees to that authority re-joining via a majority vote.

## **5. Quorum**

- 5.1 The quorum shall be 6 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 Chairman or Secretary after counting the members present declares that a quorum is not present, the meeting shall stand adjourned.

## **6. Chairman and Vice Chairman**

- 6.1 The chairmanship 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 Chairman 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 Chairman or in his/her absence the Vice-Chairman or in his/her 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. The first appointments will be made part way through the municipal year and will continue until May 2015, unless otherwise agreed.
- 6.3 Where, at any meeting or part of a meeting of the EPC both the Chairman and Vice Chairman are either absent or unable to act as Chairman or Vice

Chairman, 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 Chairman and Vice-Chairman vests in the principal member concerned and in their absence the role of Chairman or Vice-Chairman 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 Chairman having the casting vote in addition to his/her 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 subcommittee 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 Nottingham City Council and the Director for Legal and Democratic Services from that authority shall be Secretary to the Committee ("the Secretary"). The Host Authority will also provide Section 151 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:

- i) to maintain a record of membership of the EPC and any Sub-Committees or advisory groups appointed;
- ii) 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;

- iii) 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;
- iv) to summon meetings of the EPC or any Sub-Committees or advisory groups;
- v) to prepare and send out the agenda for meetings of the EPC or any Sub-Committees or advisory groups; in consultation with the Chairman and the Vice Chairman of the Committee (or Sub-Committee/ advisory group);
- vi) 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;
- vii) to take such administrative action as may be necessary to give effect to decisions of the EPC or any Sub-Committees or advisory groups;
- viii) 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 Chairman 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 Chairman and Vice Chairman 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:

- i) from and signed by two members of the EPC, or
- ii) 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 Chairman and Vice Chairman 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:

- i) from and signed by two members of the EPC; or
- ii) 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 Chairman or in their absence the Vice Chairman; and shall incorporate in the agenda any items of business and any reports submitted by:

- i) the Chief Executive of any of the constituent authorities;
- ii) the Chief Finance Officer to any of the constituent authorities;
- iii) the Monitoring Officer to any of the constituent authorities;
- iv) the officer responsible for economic development at any of the constituent authorities; or
- v) 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 Act 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 Chairman 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 his/her 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 he/she has 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:
- i) in the case where paragraph 13.3.2 below applies, immediately after making representations, answering questions or giving evidence;

- ii) in any other case, wherever it becomes apparent that the business is being considered at that meeting; 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 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 Chairman shall sign the minutes.

#### **13.5 Rules of Debate**

##### **13.5.1 Respect for the Chairman**

A member wishing to speak shall address the Chairman and direct their comments to the question being discussed. The Chairman shall decide the order in which to take representations from members wishing to speak and shall decide all questions of order. His/her 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
  - ii. 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**

**Document No. 3 – Scheme of Delegation**

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1. **FUNCTIONS DELEGATED TO THE AD HOC COMMITTEE FOR CHIEF EXECUTIVE, CHIEF OFFICER AND DEPUTY CHIEF OFFICER APPOINTMENTS ETC.**

1. Taking such action regarding the appointment, discipline or dismissal of the Chief Executive and Chief Officers as may be performed by a committee.
2. The appointment, grading, terms and conditions of Deputy Chief Officers.

2. **FUNCTIONS DELEGATED TO/PERFORMED BY OFFICERS AND THE CHIEF CONSTABLE OF NOTTINGHAMSHIRE (Some of these functions derive directly from statute)**

The functions or parts of functions to the officers listed below:

1. Chief Executive

- (1) a) To act as the Council's Head of Paid Service in accordance with Section 4 of the Local Government and Housing Act 1989.
- b) To act as the Council's chief policy adviser.
- c) 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.
- d) To act as the Council's Returning Officer for the election of councillors of the Borough and for the election of councillors of parishes within the Borough - section 35 of the Representation of the People Act 1983 and also for the purposes of parish polls for the purposes of Local Government Act 1972.
- e) To act as the Council's Electoral Registration Officer - section 8 of the Representation of the People Act 1983.
- f) To conduct job evaluation and make all necessary decisions associated therewith assisted as advised by the Joint Steering Group, Moderation Panel and Gradings Appeal Panel, subject to any resource implications being authorised by or on behalf of the Council.
- g) 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.
- h) 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.

- i) to agree changes proposed by Liberty Leisure Ltd in respect of employing any person and setting or amending the terms applicable to any employee or dismissing any employee, subject to such decisions being within the overall financial limits of the Liberty Leisure Business Plan, excluding the appointment of, amendment to the terms and conditions of, and dismissal of the Managing Director or other Directors of the Company.
  - j) to appoint, in consultation with the Leader of the Council, and other recognised group leaders, an Interim Director of Liberty Leisure Ltd in the event that the Board of Liberty Leisure Ltd becomes inquorate, until such a time as a permanent appointment can be approved by the Council.
- (2) The Council's functions with regard to the matters listed below in consultation with the appropriate Chief Officers:
- (a) post entry training (except for conferences or courses not met from the training budget) and including internal training courses;
  - (b) financial assistance towards the costs of attending courses, seminars etc;
  - (c) early retirement on medical grounds subject to the appropriate medical reports;
  - (d) agreement, subject to any necessary consultation with the appropriate committee, and implementation of national and local conditions of service;
  - (e) welfare and employee facilities;
  - (f) employee relations;
  - (g) liaison with union representatives to formulate proposals for committee considerations;
  - (h) payment of wages and salaries;
  - (i) payroll reconciliation - PAYE, NI;
  - (j) health and safety at work issues in relation to the Council as employer;
  - (k) telephones;

- (l) computer development;
- (m) emergency planning;
- (n) the determination of whether a designated car user allowance is to be attached to a post when a vacancy arises;
- (o) the safeguarding of adults and children;
- (p) minor establishment changes where the overall financial consequences are below £5,000 per annum and five or fewer employees are affected by any such changes;
- (q) the appointment of Medical Proper Officers and Alternative Medical Proper Officers;
- (r) the functions of the Council under the following:
  - National Assistance Act 1948 and National Assistance (Amendment) Act 1951
  - Civic Amenities Act 1967
  - European Communities Act 1972
  - Highways Act 1980
  - Road Traffic Regulation Act 1984
  - Water Industry Act 1991
  - Land Drainage Act 1991
  - Traffic Management Act 2004
  - Police Reform and Social Responsibility Act 2011

In all cases, the power to instigate legal proceedings is delegated to the Director of Legal and Planning Services and Monitoring Officer.

- (s) the power to regulate street trading;
- (t) in common with the Deputy Chief Executive and Director of Legal and Planning Services and Monitoring Officer, the functions of the Council under the following:
  - Dangerous Dogs Act 1991
  - Anti-Social Behaviour Act 2003 and the Anti-Social Behaviour, Crime and Policing Act 2014
  - Clean Neighbourhoods and Environment Act 2005
  - Animal Welfare Act 2006

In all cases, the power to instigate legal proceedings is delegated to the Director of Legal and Planning Services

- (u) To exercise any power delegated to the Head of Public Protection.

- (3) Authority to consider the pooling arrangements for business rates retention in consultation with the Deputy Chief Executive and the Chair of the relevant committee.

A general authority to determine and issue any notice, decision, proceedings, appeal otherwise delegated to officers (other than where prohibited by statute) in the absence of the officer with whom the specific delegation rests.

- (a) In common with the Director of Legal and Planning Services to act on behalf of the Council in respect of The Redress Schemes for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014.
- (b) In common with the Director of Housing, Leisure and Property Services and Director of Legal and Planning Services to act on behalf of the Council in respect of the following parts of the Anti-Social Behaviour Crime and Policing Act 2014: part 1 (Injunctions), Part 4 Chapter 1 (Community Protection Notices), Part 4 Chapter 2 (Public Spaces Protection Orders) Part 4 Chapter 3 (Closure Powers), Part 5 (Recovery of possession of a dwelling house ASB grounds) provided that the instigation of court proceedings in any case is reserved to the Director of Legal and Planning Services in consultation with the Chief Officer with responsibility for the service.

### **Specific delegation via the Chief Executive**

The Chief Environmental Health Officer, Senior Environmental Health Officers, Environmental Health Officers and the Environmental Health Technicians be appointed Inspectors for the purposes of paragraph 2 of Schedule 2 to the Sunday Trading Act 1994 and be delegated all administrative and enforcement powers under the Act, save for the authorisation of criminal proceedings.

That the officers referred to in the paragraph above be authorised to exercise the powers contained in the Pesticides Act 1988 and Section 108 of the Environment Act 1995. That the Chief Environmental Health Officer be appointed Inspector in pursuance of Sections 19 and 39 of the Health and Safety at Work etc Act 1974 to exercise all powers of Inspector contained in relevant statutory provisions as defined by that Act within the Council's field of responsibility (although any power to prosecute or institute court proceedings shall only be exercised following consultation with the Director of Legal and Planning Services).

That the Chief Environmental Health Officer, Senior Environmental Health Officers, Environmental Health Officers and Environmental Health Technical Officers be appointed Inspectors 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 here under.

That the Inspectors referred to in a) and b) above be delegated the power to authorise persons accompanying them on inspections for the purposes of section 20(2)(c)(i) of the Act.

The Chief Environmental Health Officer be authorised to administer Simple Cautions in conjunction with an officer from Legal services.

That all the Environmental Health Officers and Environmental Health Technical Officers be authorised to act as authorised officers under the Food Safety Act 1990 and the European Communities Act 1972.

## 2. Deputy Chief Executive

- (1) a) To act as the Council's Chief Financial Officer in accordance with Section 151 of the Local Government Act 1972.
- b) Provide grant aid to organisations and individuals to the limits.
- c) To write off debts to the limit set in Financial Regulations.
- d) To grant non-domestic rating discretionary relief.
- e) Full delegation to carry out the functions of the Council with regard to the matters listed below:
  - administration of benefits, including determination of entitlement and the award of discretionary housing benefits
  - collection of revenues due to the Council under currently prevailing legislation relating to local government finance
  - determination and declaration of the appropriate local average rate in March and September each year in respect of Council mortgages and perform any consequential administration
  - appearance at hearings of the Valuation Tribunal
  - the recovery of rates, rent (including for the avoidance of doubt rent from the Council's Housing Stock), and council tax, including the appointment of enforcement agents for this purpose, and the pursuit of court proceedings
  - eviction of tenants following an Order for Possession subject to the prior consultation with the Director of Housing, Leisure and Property.
  - management of the Council's investments and debts, including the appointment of external investment managers and brokers, in accordance with the Council's adopted Treasury Policy Statement
  - appointment of and liaison with insurers
  - 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.

- f) The performance within approved policies, of the Council's functions under the following Acts, parts of Acts and sections:
- Compulsory Purchase Act 1965 section 27
  - Transport Act 1968 section 162
  - Local Government, Planning and Land Act 1980 Parts V VI and VII
  - Local Government Finance Act 1982
  - Insolvency Act 1986 Part II Chapter VI, Part VIII and Part IX
  - Social Security Act 1986 Part II and III
  - Local Government Finance Act 1988
  - Local Government & Housing Act 1989 Part IV and Part V
  - General Rate Act 1967 (for litigation and valuation matters under the former rating section)
  - Local Government Finance Act 1992
  - Local Government & Rating Act 1997
- Local Government Act 2003
  - Localism act 2011, Part 4, s 69-71, Part 5, Chapter 1; Part 7, Chapter 3
- g) To determine applications for permission to use Beeston Square and Stapleford Square following consultation with the Director of Housing, Leisure and Property.
- h) the power 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 financial operating leases for items of plant and equipment within the capital programme.
- i) the power to prepare and submit on the Council's behalf tenders in respect of all activities in accordance with relevant legislative requirements and to organise and perform all works in relation thereto.
- j) the power to negotiate and accept quotations from contractors for works classified as part of tenders within limits specified in financial regulations.
- k) the power to establish and review as necessary internal rates in respect of labour, plant and materials.
- l) The power to grant or refuse consent for the pruning or lopping of trees in a conservation area or covered by a tree preservation order; under section 154 and 294 of the Highways Act 1980 and the Local Government (Miscellaneous Provisions) Act 1976 section 23 subject to prior consultation with the Director of Legal and Planning Services.
- m) To determine appeals in relation to compensation for matters relating to the Register of Community Assets.

- n) A general authority to determine and issue any notice, decision, proceedings, appeal otherwise delegated to officers (other than where prohibited by statute) in the absence of the officer.
- o) To manage buildings and lands held for directorate purposes including Nottingham Canal, closed churchyards, cemeteries, public conveniences, parks, open spaces and recreation grounds.
- p) Responsibility for assessing and determining applications regarding the Policy on Discretionary Council Tax discounts.

### 3. Director of Legal and Planning Services and Monitoring Officer

- (1) To act as the Council's Monitoring Officer in accordance with section 5 of the Local Government and Housing Act 1989 and the Local Government Act 2000.
- (2) To make administrative changes to the Constitution in consultation with the Chief Executive, the Leader of the Council, the Leader of the Opposition, the Leader of any other group on the Council except in circumstances where any of the consultees object in which case the proposed changes shall be determined by full Council.
- (3) To grant dispensations to speak and/or vote where they would otherwise have a Disclosable Pecuniary Interest or Non-Disclosable Pecuniary Interest if the Director of Legal and Planning Services and Monitoring Officer:
  - considers that without a dispensation the number of persons prohibited from participating would be so great a proportion of the decision-making body as to impede the transaction of the business;
  - considers that, without the dispensation, each member of the Executive would be prohibited from participating in the business.
- (4) To appoint a Deputy Monitoring Officer to support the functions of the Monitoring Officer
- (5) To administer the Council's complaints system and deal with the Information Commissioner, Local Government Commissioner (the Ombudsman) and the Housing Ombudsman in respect of complaints made against the Council, its members, officers, agents or contractors.
- (6) To determine parking appeals referred back to the Council by the Traffic Penalties Tribunal.
- (7) A general authority to act as the Council's solicitor in any matter. Without prejudice to the generality of the foregoing to; recover any money owing to the Council; recover land or other property belonging to the Council; otherwise defend or protect or enforce the Council's rights and interests;

institute proceedings for any offence; institute and conduct of court proceedings; seek advice from counsel or such other person as may be appropriate to enable such action(s) Including where such action is delegated elsewhere in this Constitution.

- (8) A general authority to determine and issue any notice, decision, proceedings, appeal otherwise delegated to officers (other than where prohibited by statute) in the absence of the officer.
- (9) To issue proceedings where appropriate for a Possession Order.
- (10) Criminal Justice and Public Order Act 1994 Sections 77 to 80 or seek injunctive relief for trespass.
- (11) In any case where there appears to have been an infringement of the Protection of Eviction Act 1977 or the Caravan Sites Act 1968 as amended, authority to prosecute on the Council's behalf.
- (12) To consent to transfer of property into joint names by a sole owner where the Council will gain another covenant.
- (13) To determine to issue completion notices on right to buy applications.
- (14) Authority to institute proceedings for:
  - failure to comply with improvement and/or prohibition notice served under the Food Safety Act 1990 and associated domestic and European Legislation;
  - offences under The Food Premises (Registration) Regulations 1991
- (15) To determine applications for certificates of lawful use or development under Sections 191 and 192 of the Town and Country Planning Act 1990 in consultation with the Head of Neighbourhoods and Prosperity.
- (16) To confirm unopposed public path orders and tree preservation orders.
- (17) To institute proceedings for offences under the Local Government (Miscellaneous Provisions) Act 1976.
- (18) To institute proceedings for any matter within the remit of the Council (including for the avoidance of doubt those offences mentioned elsewhere in this Constitution unless specifically excluded).
- (19) To apply for injunctions, anti-social behaviour orders or make anti-social behaviour agreements.
- (20) To determine applications for the Register of Community Assets and applications for compensation.

(21) To authorise officers under section 223 of the Local Government Act 1972.

(22) Where the Council has the power to sign any Notice or requisition requiring the provision of information necessary to enable the Council to carry out its functions and responsibilities.

(23) Where the Council has a power to require entry to any land or property to authorise any person or sign any Notice to enable the use of such power including applications to the Court to enforce or ensure the power of entry can be exercised.

(2) a) Taking such action as may be identified by the Head of Neighbourhoods and Prosperity after prior consultation with ward members and the Chair and Vice Chair of the Planning Committee e.g.:

- service of breach of condition notices
- service of enforcement notices
- service of stop and temporary stop notices
- service of untidy land notices
- institution of legal proceedings (including prosecution and injunction) to enforce any requirement of the Council relating to planning and development control

b) The power to enter into an agreement regulating the development or use of land in consultation with the Head of Neighbourhoods and Prosperity and other relevant chief officers (section 106 Town and Country Planning Act 1990)

To exercise any power delegated to the Head of Neighbourhoods and Prosperity

d) in common with the Director of Housing, Leisure and Property acquisitions, appropriations and disposals of land or property (except, in the case of the Director of Legal and Planning council houses) not exceeding the value currently set out in Financial Regulations;

e) in common with the Director of Housing, Leisure and Property lettings, negotiations and settlement of leases and rents for Council-owned land or property (except council houses) not exceeding the rental currently set out in Financial Regulations;

f) in common with the Director of Housing Leisure and Property Services all easements licences or other rights or interests affecting land (including deferral of the Council's interest) whether granted or to be granted to or by the council not exceeding the rental or capital consideration currently set out in Financial Regulations;

g) in common with the Director of Housing Leisure and Property approval of Wayleave Agreements;

- (3) a) All the functions devolving by law on the Monitoring Officer under section 5 of the Local Government & Housing Act 1989
- a) In common with the Chief Executive to act on behalf of the Council in respect of The Redress Schemes for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014.
- b) In common with the Chief Executive and Director of Housing, Leisure and Property Services to act on behalf of the Council in respect of the following parts of the Anti-Social Behaviour Crime and Policing Act 2014: part 1 (Injunctions), Part 4 Chapter 1 (Community Protection Notices), Part 4 Chapter 2 (Public Spaces Protection Orders) Part 4 Chapter 3 (Closure Powers), Part 5 (Recovery of possession of a dwelling house ASB grounds) provided that the instigation of court proceedings in any case is reserved to the Director of Legal and Planning Services in Consultation with the Chief Officer with responsibility for the Service.
- d) In consultation with the Chair of the Jobs and Economy Committee and relevant ward members to make decisions on applications for Neighbourhood Plan Area designation, provided such applications are made by a Town or Parish Council for their own parished area.
- e) In consultation with the Chair of the Jobs and Economy Committee and relevant ward members to make decisions on applications for Neighbourhood Plan Area designation and Neighbourhood Forum designation.
- f) Delegation to make payments for maladministration in consultation with the Section 151 Officer.

4. Director of Housing, Leisure and Property Services

- (1) a) To manage the Council's housing stock and other Housing Revenue Account property; to manage the Council's housing repairs operation
- b) To carry into effect approved capital and revenue programmes with regard to the Council's housing stock
- c) To administer in conjunction with the Director of Legal and Planning Services the right to buy and voluntary sales schemes
- d) To exercise any power delegated to the Head of Housing or the Head of Property Services
- e) To carry into effect approved policy relating to Council and private housing
- f) To perform the Council's functions with regard to homelessness, protection from eviction and private tenants' rights
- g) To approve and vary allowances for decoration for Council houses and flats, as necessary

- h) To award compensation under the Secure Tenants of Local Authorities (Compensation for Improvement) Regulations 1994 unless appropriate to exercise a discretion
- i) To approve the use of communal lounges by care groups
- j) To approve deposit guarantees, over occupation grants and the transfer of incentive grants to tenants where an adaptation for use by a disabled person is required in accordance with policy.
- k) To manage leisure centres museums, craft workshops, Durban House, Eastwood and community facilities
- l) To promote artistic, sporting and cultural activities
- m) In consultation with the Leader of the Council to determine any financial assistance to public firework events
- n) Save as delegated elsewhere, to perform the Council's functions under the following legislation:
  - (1) Housing Act 1985;
  - (2) Local Government and Housing Act 1989 Parts VII, VIII and IX;
  - (3) Housing Act 1988 - Change of Landlord - response to applications;
  - (4) Land Compensation Act 1973;
  - (5) Housing Act 1996
  - (6) Children Act 2004
- o) Following consultation with the relevant Committee Chair to impose property charges on dwellings in respect of aids and adaptations.
- p) To maintain footpaths and bridleways;
- q) To approve aids and adaptations to Council properties up to a maximum value of £10,000.
- r) in common with the Chief Executive and Deputy Chief Executive, to deal with Housing Grants, under the Housing Grants Construction and Regeneration Act 1996.
- s) to manage buildings and lands held for directorate purposes including Housing Land, public car parks, etc and to carry out such operational matters as may be required for and on behalf of the Bramcote Bereavement Services Joint Committee;

- t) the power 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;
- u) in common with the Director of Legal and Planning Services acquisitions, appropriations and disposals of land or property (except Council houses) not exceeding the value currently set out in Financial Regulations;
- v) in common with the Director of Legal and Planning Services lettings, negotiations and settlement of leases and rents for Council-owned land or property (except council houses) not exceeding the rental currently set out in Financial Regulations;
- w) in common with the Director of Legal and Planning Services all easements licences or other rights or interests affecting 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;
- x) negotiating and settlement of 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;
- y) negotiation of leases and rents for industrial properties in consultation with the Director of Legal and Planning Services;
- z) management of industrial properties;
- aa) selection of tenants for industrial properties within the approved general guidelines;
- bb) approval of details of minor developments associated with conditions of sales of council properties;
- cc) in common with the Director of Legal and Planning Services approval of Wayleave Agreements;
- dd) the functions of the Council under the Home Energy Conservation Act 1995;
- ee) To manage the Council's building maintenance function
- ff) In common with the Chief Executive and Director of Legal and Planning Services to act on behalf of the Council in respect of the following parts of the Anti-Social Behaviour Crime and Policing Act 2014: part 1 (Injunctions), Part 4 Chapter 1 (Community Protection Notices), Part 4 Chapter 2 (Public Spaces Protection Orders) Part 4 Chapter 3 (Closure Powers), Part 5 (Recovery of possession of a dwelling house ASB grounds) provided that the instigation of court proceedings in any case is reserved to the Director of Legal and Planning Services in Consultation with the Chief Officer with responsibility for the Service.

gg) Conduct reviews of Council Homeless decisions.

5. Head of Neighbourhoods and Prosperity

- (a) (i) The determination of applications for planning permission, conservation area consent, consent for the display of advertisements and listed building consent in respect of all listed and the determination of or response to any other application or matter received in respect of the town and country planning function 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 provision in 6(a)(ii) below.
- (ii) Any application under 6(a)(i) 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.
- (iii) Subject to consultation with ward members and the Chair and Vice Chair of the Planning Committee, the decision not to take enforcement action in consultation with the Director of Legal and Planning Services.
- (iv) The service of planning contravention notices.
- (v) All the powers of the Council under Part 8 of the Anti-Social Behaviour Act 2003 in respect of complaints about high hedges.
- (b) (i) 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.
- (ii) to perform the Council's functions under Sections 76 to 83 of the Building Act 1984 (buildings dangerous, ruinous or detrimental to the amenities of the neighbourhood) in consultation with the Director of Legal and Planning Services.
- (iii) to issue Notices under Section 36 of the Building Act 1984 (removal or alteration of work done in breach of Building Regulations).
- (iv) to exercise all local authority functions under the currently subsisting Building Regulations.
- (v) to implement penalties under Section 35 of the Building Act 1984 (contravention of certain procedural provisions of the Building Regulations).
- (vi) the determination of the need for prior approval of demolition of buildings.
- (vii) Power to take all necessary action on dangerous buildings in cases of emergency including the serving of notices under Section 77 of the Building Act

1984

(viii) Authority 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

(ix) street naming and numbering.

6. Head of Property Services

grant aid up to a limit of £7,500 in respect of shop fronts and industrial improvement.

To determine applications for permission to use Beeston, Eastwood, Stapleford, and Kimberley Squares following consultation with the Director of Housing, Leisure and Property Services.

7. Head of Public Protection

To administer the Council's functions, within approved policy, relating to financial assistance for the renovation of private housing.

Perform all the Council's functions in respect of: occupational health and safety, control of diseases, control of pollution, air quality, contaminated land, public health including drainage and statutory nuisance, private sector housing, Sunday trading, food and water supplies, environmental protection, health protection, and smoking.

To perform all the Council's functions with regard to moveable dwellings, caravan sites and unlawful encampments.

To perform the functions of the Council under Sections 43 to 56 of the Anti Social Behaviour Act 2003 relating to penalty notices for graffiti and fly posting, removal of graffiti, advertisements, aerosol paints, waste and litter.

To perform the functions of the Council under the Clean Neighbourhoods and Environment Act 2005, specifically the officers employed as neighbourhood wardens be authorised to issue fixed penalty notices for dog fouling, litter, flyposting and graffiti offences;

To enforce the powers of the Health Act 2006 (relating to the Council's powers regarding smoking), save that the power to instigate legal proceedings is delegated to the Director of Legal and Planning Services.

To perform the Council's enforcement functions under all legislation relating to private sector housing conditions.

To approve and authorise the payment of housing grants.

The consideration and determination of applications for approvals, licences, permits and registration for the following purposes together where applicable with the power to issue, vary, refuse, revoke or suspend such approvals, licences, permits and registration:

- Skin piercing
- pleasure boats and vessels
- premises for the preparation of food (including the Food Hygiene Rating Scheme)
- sports grounds
- dog breeding
- pet shops
- premises where animals are bred or kept as part of a business
- animal trainers and exhibitors
- zoos
- dangerous wild animals
- guard dogs
- house in multiple occupation
- animal boarding
- riding establishments
- mobile homes
- scrap metal dealers (except for refusals which will go to Committee)
- pollution control
- private water supplies
- health protection
- Animal Welfare Act 2006

The Chief Environmental Health Officer will also be authorised to exercise this power on behalf of the Head of Public Protection.

The consideration and determination of applications for licences, permits and registration for the following purposes, together where applicable with the power to grant, revoke, or suspend such licences, permits and registration:

- street collections
- house to house collections
- massage and special treatment
- hackney carriage and private hire vehicles, drivers and operators
- hypnotism

The Licensing Manager will also be authorised to exercise this power on behalf of the Head of Public Protection.

All the powers capable of being exercised by an officer 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.

To issue licences for hackney carriage and private hire vehicles which are outside the current age limits under the Council's Exceptional Condition policy.

The performance within approved policies, of the Council's functions under the following Acts, parts of Acts and Sections:

- Public Health Act 1925 and Town Police Clauses Act 1847
- Performing Animals (Regulation) Act 1925
- Public Health Act 1936
- Prevention of Damage by Pests Act 1949
- Shops Act 1950
- Pet Animals Act 1951
- Caravan Sites and Control of Development Act 1960
- Public Health Act 1961
- Home Safety Act 1961
- Factories Act 1961
- Animal Boarding Establishments Act 1963
- Offices Shops and Railway Premises Act 1963
- Riding Establishments Act 1964
- Caravan Sites Act 1968
- Breeding of Dogs Act 1973
- Control of Pollution Act 1974
- Health and Safety at Work etc. Act 1974
- Slaughterhouses Act 1974
- Dangerous Wild Animals Act 1976
- Local Government (Miscellaneous Provisions) Act 1976
- Refuse Disposal (Amenity) Act 1978
- Animal Health Act 1981
- Zoo Licensing Act 1981
- Local Government (Miscellaneous Provisions) Act 1982 Parts I, II, III, IV, VIII, XI, XII
- Litter Act 1983
- Building Act 1984 Part III
- Food Act 1984
- Public Health (Control of Disease) Act 1984
- Food and Environmental Protection Act 1985
- Nottinghamshire County Council Act 1985
- Environment and Safety Information Act 1988
- Environmental Protection Act 1990 Parts I, IIA, III, IV and VIII
- Food Safety Act 1990
- Dangerous Dogs Act 1991
- Clean Air Act 1993
- Noise and Statutory Nuisance Act 1993
- Housing Grants, Constructions and Regeneration Act 1996 Part 1
- Noise Act 1996
- Breeding and Sale of Dogs Act 1999.
- Local Government (Miscellaneous Provisions) Act 2003

- Housing Act 2004 Parts I, II, III, IV, VIII, XI, XII
- Scrap Metal Dealers Act 2013
- Mobile Homes Act 2013

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015.

In respect of all the above, the power to instigate legal proceedings is delegated to the Director of Legal and Planning Services.

8. Chief Constable of Nottinghamshire

The power to issue and deal with fixed penalty notices for dog fouling, littering, flyposting and graffiti including the power to delegate those powers to police authority employees under section 38 Police Reform Act 2002.

9. The Chief Executive and Chief Officers of other Local Authorities

Such powers as may be required to be exercised on behalf of the Council during an emergency as may be identified from time to time by the Chief Executive or relevant chief officer.

### 3. FIXED PENALTY NOTICES

19.1 Any Chief Officer has the authority to authorise such officers as they deem appropriate to serve fixed penalty notices.

19.2 The following shall be set for the purposes of such notices

	Offence	Legislation	Penalty £	Max on conviction £
P05	Leaving Litter	S.87, S.88 Environmental Protection Act 1990	75/50**	2,500
P0P	Exposing vehicles for sale on a road	S.3, S.6 Clean Neighbourhoods and Environment Act 2005	100	2,500
P0Q	Repairing Vehicles on a road	S.4, S.6 Clean Neighbourhoods and Environment Act 2005	100	2,500
P0G	Graffiti	Clean Neighbourhood and Environment Act S28, S1 Crime and Disorder Act 1998, S 43 ASB Act 2003	75/50	5,000
P0H	Fly posting	S.224 Town and Country Planning Act 1990. TCP(Control of Advertisements)(England 2007 Regulations) S43. ASB Act 2003 Clean Neighbourhood and Environment Act	75/50	2,500
P0B1	Waste Collection Requirements (Domestic)	S.46, S47ZA, Environmental Protection Act 1990	75/50	1,000
P0A	Waste Collection Requirements (Commercial)	S.47, S47ZA, Environmental Protection Act 1990	75/50	1,000
P07	Trade waste	S.34, S.34A, Environmental Protection Act 1990, EP (Duty of Care) Regs 1991	300	5,000
P0R	Abandoned vehicles	S.2, S.2A(1), Refuse Disposal (Amenity) Act 1978	200	2,500
P50	Noise exceeds permitted level (Dwelling)	S.4 Noise Act 1996	100	1,000
P0D	Breaching Public Space Protection Order	S68 Anti-social Behaviour, Crime and Policing Act 2014	75/50**	1,000
P0C	Breach of Community Protection Notice (individual)	S52 Anti-social, Crime and Policing Act 2014	75/50**	2,500
P0C1	Breach of Community Protection	S52 Anti-social, Crime and Policing Act	75/50**	20,000

	Notice (Business)	2014		
SM1	Smoking in a smoke free zone	Section 6 Health act 2006	50/30***	200
SM2	failure to display a no smoking sign	Section 6 Health act 2006	200/150***	1,000
<b>** Reduced if paid within 14 days</b>				
<b>*** Reduced if paid within 15 days</b>				

# **Broxtowe Borough Council Constitution**

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**BROXTOWE BOROUGH COUNCIL**  
**FINANCIAL REGULATIONS**

**1. GENERAL**

- 1.1 This Code of Financial Regulations is designed to assist the Committees 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 his 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 committee. 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 the relevant Committee.
- 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 the relevant Committee, and provided that the expenditure on both capital and revenue account does not exceed the approved estimate.
- 2.4 Any proposal to a committee 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 the relevant Committee unless the additional cost can be contained within overall expenditure totals and met by approved virement within the limits specified in Document 2 (Standing Orders and Executive Arrangements) section 44.

## 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 the Council's Standing Orders, section 44. 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 the relevant Committee.
- 3.7 Chief Officers shall furnish the Deputy Chief Executive with such information as he 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. He 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 his duties or in connection with his 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 (except in respect of the financial year ending 31 March 2015 for which the Accounts and Audit (England) Regulations 2011 apply).
- 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 his 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 he 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. He 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 him 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 Director of Legal and Planning Services and Monitoring Officer, shall recommend to the relevant Committee 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 his 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 he 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 him to his 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 him. Such reports shall include a mid-year review by 30 September of each year in question and an annual report on treasury management for presentation by 30 June of the succeeding financial year.

## 8. **IMPREST ACCOUNTS**

- 8.1 The Deputy Chief Executive shall make such advances as he considers 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 him.
- 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 him. 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 him.

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 his 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 his 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 Standing Orders 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 Commissioning and Procurement 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 him. 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 his 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 he considers 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 him 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 (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 Standing Orders.
- 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 the relevant Committee.
- 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 his 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 Standing Order 44 (1-5) relating to budgetary control, 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 the relevant Committee.
- 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) he has 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 he considers necessary, examine final accounts for contracts and he shall be entitled to make all such enquiries and receive such information and explanations as he may require in order to satisfy himself 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 Director of Legal and Planning Services and 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 his action to the Committee concerned.
- 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 Director of Legal and Planning Services and 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 Director of Legal and Planning Services and 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 his department, notify the Chief Executive as soon as possible and in the form prescribed by him 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 him, 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 Director of Housing, Leisure and Property Services and the Deputy Chief Executive, recording the holding committee, 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 Director of Legal and Planning Services and 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 the relevant Committee 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 the relevant Committee 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 relevant Committee 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 his 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 he requires 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 Oncost 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 £1000, or the total annual value exceeds £5,000, in which event a report must be submitted to the relevant Committee 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 Standing Orders 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 the relevant Committee.

## 16. **VEHICLES AND PLANT**

- 16.1 Each Chief Officer concerned shall ensure that records are maintained in respect of vehicles and plant under his 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 his control. He 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.
- 17.2a 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 his 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.

- 17.3 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.
- 17.4 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.
- 17.5 Each Chief Officer shall be responsible for ensuring that information held within his directorate conforms to the Council's Information Management Strategy and Information Security Policy.
- 17.6 Each Chief Officer shall be responsible for ensuring that all information containing personal data within his 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 his 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 he may consider necessary, in consultation with other Chief Officers as appropriate.
- 18.6 Chief Officers shall consult the Deputy Chief Executive and the Director of Legal and Planning Services and 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 his 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' TRAVELLING, 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 Director of Legal and Planning Services and Monitoring Officer and the Chief Officer of the directorate concerned, report to the relevant Committee any non-compliance with Financial Regulations.
- 23.2 Any doubt as to the interpretation of these Regulations, if unresolved after consultation with the Director of Legal and Planning Services and Monitoring Officer, shall be referred to the relevant Committee.

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**

**Document No. 4b – Financial Regulations (Contracts)**

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## **CONTRACT STANDING ORDERS**

Standing Orders below have been approved by the Council Relating to Contracts and are incorporated into the Council's Standing Orders accordingly.

### **1. Basic principles and compliance with standing orders**

- 1.1 All purchasing and disposals procedures must:
- a. aim to achieve value for money
  - b. be consistent with the highest standards of integrity
  - c. ensure fairness in allocating public contracts
  - d. comply with all legal requirements
  - e. ensure that non-commercial considerations do not influence any contracting decision except where specifically referred to in these standing orders
  - f. support the Council's vision and priorities
  - g. support the Council's views around sustainable procurement and environmental issues
  - h. comply with the Council's Commissioning and Procurement Strategy
- 1.2 Every contract and the procedures relating to the selection of tenderers and the obtaining and opening of tenders or quotations shall comply with these standing orders and no exception from any of the following provisions of these standing orders shall be made otherwise than by the direction of the Council or by a Committee or by the Chief Executive or duly nominated substitute understanding order 32.
- 1.3 A record of any exception from any of the provisions of these standing orders, together with the reasons therefore, shall be included in the minutes of the Council or a Committee by which the exception was made, as the case may be.

### **2. Procurement options**

- 2.1 Officers should consider what procurement method is most likely to achieve the purchasing objectives with the preference being for an open or restricted tender process to be used wherever possible. Regardless of the procurement options chosen, all UK and EU legislation and directives should be complied with. In particular, where any such directive requires the publication of notices of contracts to be let, the requirements thereof shall be complied with notwithstanding that they may exceed or modify the requirements of any of these standing orders.

#### **Collaborative procurement**

- 2.2 In order to secure value for money the Council may decide to enter into collaborative procurement arrangements. All purchases made via a local

authority purchasing and distribution consortium are deemed to comply with the Council's contract procedures and no exemption is required. 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 authority and other consortium members.

- 2.3 Any contract entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the contract procedure rules and standing orders of the leading organisation, will be deemed to comply with these standing orders and no exemption is required.

#### Framework Agreements

- 2.4 Framework agreements must only be used where the Council is either a named participant or where the Council is a recognisable class of contracting authority under the terms of the framework agreement.
- 2.5 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, or
  - b. where the terms laid down in the framework agreement are not precise enough or complete for the particular item under consideration, by holding a mini competition amongst the organisations included within the agreement.

#### Multiple contracts

- 2.6 Where it is considered that the value of work on a number of individual contracts awarded to any one contractor within a period of 12 months is likely to exceed the values as laid down in standing order 5.1 if it had been awarded within one single contract, then officers shall comply with these standing orders in the same manner as would have been applicable if the work had been let as a single contract.

#### Auctions

- 2.7 The appropriate Chief 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 effected at auction with the approval of a Committee

### **3. Exemptions**

- 3.1 Where a proposed contract is likely to exceed the EU threshold, a Chief Officer has no delegated powers and the matter has to be determined by a Committee.
- 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 his/her absence the Deputy Chief Executive in accordance with standing order 32. Where this situation arises, a report must be sent to the next appropriate Committee detailing the action taken.
- 3.3 Nothing in these standing orders and procedures shall require competitive tenders to be invited in any of the following circumstances:
- a. In the case of EU contracts no extension is permitted unless the option to do so was included when first advertised
  - b. The work to be executed or goods or materials to be supplied or the services to be provided constitute an extension of an existing contract provided that such an extension has been reflected in any contract documents or the value of such an extension is less than 10% of the original contract value (so long as this below the EU threshold). In exceptional circumstances, where such an extension has not been previously provided for, the appropriate Committee may be requested to approve such an extension.
  - c. The work to be executed or the goods or materials to be supplied consist of repairs to or the supply of parts to existing proprietary machinery or plant by the manufacturers or their agents.
  - d. The estimated expenditure is less than £25,000, provided that the appropriate Chief Officer shall take reasonable steps to secure the order at the most competitive price
  - e. The sale or purchase is by or at public auction.

### **4. Relevant contracts**

- 4.1 All relevant contracts must comply with these standing orders and procedures. A relevant contract is any arrangement made by or on behalf of the authority for the carrying out of works or for the supply of goods, materials or services. These include arrangements for:
- (i) the supply or disposal of goods
  - (ii) the hire, rental or lease of goods or equipment
  - (iii) the delivery of services, including (but not limited to) those related to:

- a. the recruitment of non-direct employees/agency staff
- b. land and property transactions
- c. financial and consultancy services.

4.2 Relevant contracts do not include:

- (i) contracts of employment which make an individual a direct employee of the authority
- (ii) 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 as laid down in the table below:

<b>Contract value</b>	<b>Requirements</b>
Below £25,000	Chief Officer decides if quotations are needed or are appropriate in order to demonstrate value for money.
£25,000 to £60,000	At least three quotations to be obtained
£60,000 to EU threshold	Tenders required. Chief Officer decides upon approach to advertising after seeking procurement advice. Contracts above £120,000 to be advertised in specialist newspapers/journals/websites as appropriate
Above EU threshold	EU procurement regulations apply for all matters

5.2 Where it is considered appropriate Chief Officers can choose to go out for tender even if this is not required by these standing orders and procedures. Quotations should also be obtained for contracts estimated to cost less than £25,000 where the Chief Officer considers it is desirable in order to achieve value for money.

5.3 For contracts in value between £25,000 and £60,000, where it is not possible to obtain three quotations due to lack of suitable firms prepared to quote or for some other valid reason, the Chief Officer shall report such reason together with details of the quotations received to the appropriate Committee.

Advertising

5.4 Invitations to quote for the supply of goods, materials or services or for the execution of works shall be sent to at least three persons or such persons as

may respond to an advertisement placed on an appropriate website that the Council uses to advertise such contracts or, if there are fewer than three such persons, to all such persons.

- 5.5 For contracts involving the supply of goods, materials or services or the execution of work estimated to be likely to exceed £60,000 in value or amount, an invitation to be considered for being able to tender for such a contract shall be sent to all persons who reply to a public notice.
- 5.6 In any such case at least 10 days public notice on such websites as the Council may determine for the advertising of such contracts must be given, expressing the nature and purpose thereof, inviting tenders for its execution and stating the last date on which tenders will be received.

#### Award criteria

- 5.7 All quotations and tenders must define award criteria that are appropriate to the purchase and designed to secure an outcome giving demonstrable value for money for the authority. The basic criteria shall be:
- a. 'most economically advantageous', where considerations other than price also apply, or
  - b. 'lowest price', where payment is to be made by the authority, or
  - c. 'highest price', where payment is to be received by the authority.
- 5.8 If the first criterion is adopted, it must be further defined in the documentation supplied to tenderers by reference to sub-criteria which may refer only to relevant considerations. These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental features, functional characteristics, safety, after sales service, technical assistance, social value added and any other relevant matters. The extent and weighting of these sub criteria must be declared and documented prior to the advertising and sending out of any contract details.
- 5.9 The weighting of non-financial criteria within a proposed contract shall be decided upon so as to ensure equal treatment of all potential contractors, shall not preclude or give undue preference to any contractor and shall ensure that all dealings with contractors are undertaken on a fair and equitable basis.
- 5.10 Any shortlisting must have regard to the financial and technical standards relevant to the contract and the award criteria and shall comply with EU rules if applicable.

#### **6. Sales – competition requirements**

- 6.1 All disposals of land, property or equipment (excluding council housing) estimated to exceed £15,000 in value shall only be disposed of with the prior approval of the appropriate Committee. In such cases the appropriate Committee. will decide upon the method to be used for advertising and

seeking tenders for such a disposal based around the individual circumstances of the land, property or equipment to be disposed of.

## **7. Submission, receipt and opening of tenders/quotations**

- 7.1 Prospective contractors 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.

### Quotations

- 7.2 Where an invitation to quote is required, every notice of such invitation shall state the last date on which quotations will be received and that no quotation will be accepted except in a plain sealed envelope which shall bear the words 'Quotation for' followed by the subject to which it relates. The envelope shall not bear any name or mark indicating the sender.
- 7.3 Quotations shall be sent to the appropriate Chief Officer and they shall be opened at one time in the presence of the Chief Officer, or duly nominated substitute, and a senior member of the Chief Officer's staff. Quotations shall be immediately initialled and dated by those present at the opening. The names of those organisations submitting a quotation and the amounts of the quotations shall be recorded by the Chief Officer.

### Tenders

- 7.4 Where in pursuance of these standing orders invitation to tender is required, every notice of such invitation shall state that no written tender will be received except in a plain sealed envelope which shall bear the word 'Tender' followed by the subject to which it relates, but shall not bear any name or mark indicating the sender, and such tenders shall be received and opened in the manner designated below:

- (a) Sale

All tenders in respect of items to be sold by the Council above the limit set out in standing order 6.1 above shall be sent to the Deputy Chief Executive. Such tenders shall remain in the custody of the Deputy Chief Executive or an officer of the Council designated by him until they are opened. Tenders shall be opened at one time by the appropriate Chief Officer, or an officer designated by him, in the presence of the Deputy Chief Executive or his/her representative and the Council's Monitoring Officer, or an officer designated by him. The tenders shall be immediately initialled and dated by those present at the opening.

The appropriate Chief Officer shall accept the highest offer received subject to scrutiny and shall report the acceptance to the appropriate Committee.. 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.

(b) Purchases

Save in the case of urgent work or work under standing order 2.3, in which case tenders shall be sought and opened in accordance with the procedural requirements of the principal authority, tenders for the supply of materials or goods to the Council or the execution of any work, which are estimated to exceed £60,000 in value or amount, shall be sent to the Deputy Chief Executive. Such tenders shall remain in the custody of the Deputy Chief Executive or an officer of the Council designated by him until they are opened. Tenders shall be opened at one time by the appropriate Chief Officer, or an officer designated by him, in the presence of the Deputy Chief Executive or his/her representative and the Council's Monitoring Officer, or an officer designated by him.

The names of the tenderers and the amount 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.

- 7.5 Where in pursuance of these standing orders electronic submission of tenders is allowed through the Council's designated system, such tenders shall remain in the custody of the Deputy Chief Executive within the system. Tenders shall be 'opened' within the system in accordance with 7.4 above.

The names of the tenderers and the amount 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.

Late tenders and quotations

- 7.6 Any tender or quotation received after the specified date and time shall not be considered unless the Chief Officer, with the approval of the Deputy Chief Executive and Monitoring Officer, consider that such circumstances warrant it. Appropriate supporting documentation must be maintained to substantiate the decision taken.
- 7.7 Under no circumstances must any late tender or quotation be considered after the other tenders or quotations have been opened.

**8. Clarification procedures and post tender negotiations**

- 8.1 Providing clarification of an invitation to tender or invitation to quote to potential or actual organisations involved or seeking clarification of a tender/quotation, whether in writing or by way of a meeting, is permitted,

however these matters shall take place in such a way as to not disadvantage or show favour towards any individual organisation involved.

- 8.2 If post tender negotiations are necessary after the final stage of a tender has been received, then such negotiations shall only be undertaken with the tenderer who is identified as submitting the best tender and after all unsuccessful tenderers have been informed. During negotiations, tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the tender documents. Where post tender negotiations result in a fundamental change (as agreed by the Deputy Chief Executive and Monitoring Officer) to the specification or contract terms, then the contract must not be awarded and should be re-tendered.

## **9. Acceptance of tenders and quotations**

- 9.1 Tenders and quotations must be evaluated and contracts awarded in accordance with the award criteria. Tenders and quotations may encompass quantitative and/or qualitative issues as well as payment values which can be taken into account within the evaluation process.
- 9.2 Where payment values only are involved in the assessment of tender and quotation documentation, a tender or quotation other than the lowest (if payment is to be made by the Council) or other than the highest tender or quotation (if payment is to be received by the Council) shall only be accepted by the appropriate Committee having considered the written observations of the appropriate Chief Officer.
- 9.3 Where quantitative and/or qualitative issues, in addition to payment values, form part of the tender evaluation, a report on the outcomes of the evaluation shall be prepared by the appropriate chief officer. Where the contract value involved is £25,000 or below, a decision on the award of the contract shall be made by the Chief Executive or Deputy Chief Executive in consultation with the Chief Officer. For contract values in excess of £25,000, a report on the outcomes of the evaluation shall be prepared by the Chief Officer and presented to the appropriate Committee including a recommendation as to the tender that should be accepted and the basis for such a recommendation.

## **10. Reports on tenders**

- 10.1 Where the tender received and recommended for acceptance is for an amount in excess of the approved budgetary provision, then the appropriate chief officer or the appropriate Committee may:
- (a) invite further tenders in accordance with these standing orders, or
  - (b) apply to the appropriate Committee for approval to a revised estimate for the scheme, or
  - (c) authorise negotiations with the lowest tenderer to reduce the tender amount on the basis of a revised specification and/or design to bring the

value of the work within the approved budget. The effect of such revision and negotiation shall be reported to the appropriate Committee.

- 10.2 Where an error is discovered in the lowest or highest tender bill during the scrutiny by the Council's appropriate technical officers, the tenderer shall be given the opportunity of confirming or withdrawing his/her tender. Should the tenderer elect to withdraw his/her tender, the offer of the next most acceptable tenderer should be subject to scrutiny by the appropriate technical officer and be reported to the appropriate Committee for acceptance if correct, provided that the accepted tender is within the approved budgetary figure.

## **11. Form of contracts**

- 11.1 The Director of Legal and Planning Services 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.
- 11.2 Every relevant contract which is less than £25,000 in value or amount shall be in writing and be signed by the appropriate chief officer.
- 11.3 Every relevant contract which exceeds £25,000 in value or amount shall be in writing, and unless under seal, shall be signed by the Director of Legal and Planning Services or in his/her absence by a designated officer
- 11.4 All contract documents for relevant contracts which exceed £25,000 in value or amount, including any correspondence, shall be the subject of scrutiny by and prior approval of the Director of Legal and Planning Services.
- 11.5 Every contract in writing shall specify:
- (a) the work, materials, matters or things to be supplied, had or done.
  - (b) the price to be paid, with a statement of discounts or other deductions and,
  - (c) the time or times within which the contract is to be performed.
- 11.6 Every relevant contract which exceeds £25,000 in value or amount, and is either for the execution of works or for the supply of goods or materials, shall provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed unless the Director of Legal and Planning Services, in consultation with the appropriate chief officer, having regard to all the circumstances considers it to be unnecessary.
- 11.7 After consultation with the appropriate Chief Officer the Director of Legal and Planning Services shall, where he/she considers it necessary, take on behalf of the Council sufficient security for the due performance of every contract for the execution of works which exceed £25,000 but is less than £100,000 in value or amount.
- 11.8 For all contracts where the contract is in respect of services or works and the value exceeds £100,000, then the Director of Legal and Planning Services in

consultation with the Deputy Chief Executive shall instruct, where he/she considers it to be necessary, that a performance bond must be obtained. In all such cases the bond, to the value of 10% of the contract sum, must be provided by the contractor from an insurance company authorised by the Department for Business Improvement and Skills or from a Joint Stock Bank.

- 11.9 For all contracts where the contract is in respect of the supply of goods or materials, then a decision as to whether or not a performance bond is required shall be left to the discretion of the Director of Legal and Planning Services.
- 11.10 Each contract for the execution of works in excess of £25,000 in value or amount shall contain a clause specifying the percentage deduction to be made from instalment payments to the contractor to provide a retention sum, and the period and conditions for holding and releasing such retention sum.
- 11.11 In every written contract for the supply of goods, materials or services which exceeds £25,000 in value or amount a clause may, where appropriate, be inserted to secure that, should the contractor fail to deliver the goods, materials or services or any portion of them within the time or times specified in the contract, the Council, 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 contractor.

## **12. Prevention of corruption and collusion**

- 12.1 There shall be inserted in every written contract a clause empowering the Council to cancel the contract and recover from the contractor the amount of any loss resulting from such cancellation if the contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or foreborne to do any action towards the obtaining or execution of the contract or any other contract with the Council, or for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Council, or if the like acts shall have been done by any person employed by the contractor or acting on the contractor's behalf (whether with or without the knowledge of the contractor), or if in relation to any contract with the Council the contractor or any person employed by the contractor or acting on the contractor's behalf shall have committed an offence under the Prevention of Corruption Acts 1906 and 1916, the Bribery Act 2010 or shall have given any fee or reward the receipt of which is an offence under sub-sections (2) and (3) of Section 117 of the Local Government Act 1972, together with any amendment thereto.

### **13. Declaration of interests**

- 13.1 If it comes to the knowledge of a member or officer of the authority that a contract in which he or she (or partner or close member of the family) has a personal or prejudicial interest has been or is proposed to be entered into by the Council, he or she shall immediately give notice to the Monitoring Officer.

# **Broxtowe Borough Council Constitution**

**Document No. 5a – Code of Conduct of Broxtowe Borough  
Council**

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## **Code of Conduct of Broxtowe Borough Council**

As a member or co-opted member of Broxtowe Borough Council (the “Council”) I 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.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles which aim to achieve best value for our residents and maintain public confidence in this authority:

- having regard to the principles of – selflessness, integrity, objectivity, accountability, openness, honesty and leadership
- championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me, and putting their interests first
- dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially
- not using or encouraging the use of aliases
- not allowing other pressures to deter me from pursuing constituents' casework, the interests of the Council's area or the good governance of the Authority in a proper manner
- never improperly conferring an advantage or disadvantage on any person or act to gain financial or other material benefits for myself, my family, a friend or close associate or place myself under a financial or other obligation to outside individuals or organisations that might seek to influence me in the performance of official duties
- when carrying out my public duties making all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit, exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this Authority
- listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit
- being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents

- contributing to making this Authority's decision-making processes as open and transparent as possible and being prepared to give reasons for those decisions and actions. Assisting residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account, but having due regard to the need to restrict access to information when the wider public interest or the law requires
- declaring any private interests, as required by this Code of Conduct, that relate to my public duties and taking steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below
- when using or authorising the use by others of the resources of the Authority, I will ensure that such resources are not used improperly for political purposes (including party political purposes) and I will have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986
- behaving in accordance with all the Council's legal obligations, alongside any requirements contained within this Authority's policies, protocols and procedures, including on the use of the Authority's resources
- valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government
- always treating people with respect, including the organisations and public I engage with and those I work alongside
- providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority
- co-operating fully with whatever scrutiny is appropriate to office
- promoting and supporting high standards of conduct when serving in my public post, in particular as characterised by the above requirements, by leadership and by example.

### **Disclosable Pecuniary Interest**

I have a Disclosable Pecuniary Interest if I, or my spouse or civil partner, have a pecuniary interest as listed in the national rules below.

If I have any of the following pecuniary interests, they are my **Disclosable Pecuniary Interests** under the national rules. Any reference to spouse or civil partner includes any person with whom I am living as husband or wife, or as if they were my civil partner.

The national rules are:

- Any employment, office, trade, profession or vocation carried on for profit or gain, which I, or my spouse or civil partner, undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by me in carrying out duties as a member, or towards my 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. The relevant period is the 12 months ending on the day when I tell the Monitoring Officer about my Disclosable Pecuniary Interests following my election or re-election, or when I became aware that I had a Disclosable Pecuniary Interest relating to a matter on which I was acting alone.
- Any contract which is made between myself, or my spouse or my civil partner (or a body in which I, or my spouse or my civil partner, has a beneficial interest) and the Council or Authority –
  - under which goods or services are to be provided or works are to be executed; and
  - which has not been fully discharged.
- Any beneficial interest in land which I, or my spouse or my civil partner, have and which is within the area of the Council or Authority.
- Any licence (alone or jointly with others) which I, or my spouse or my civil partner, holds to occupy land in the area of the Council or Authority for a month or longer.
- Any tenancy where (to my knowledge) –
  - the landlord is the Council or Authority; and
  - the tenant is a body in which I, or my spouse or my civil partner, has a beneficial interest.

### **Action to be taken**

If I am present at a meeting of the Council, or of any committee, sub-committee, joint committee, or joint sub-committee of the Authority, and I have a Disclosable Pecuniary Interest relating to any business that is or will be considered at the meeting, I must not:

- participate in any discussion of that particular business at the meeting, or if I become aware of a Disclosable Pecuniary Interest during the meeting participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

This Authority requires members to withdraw from the room at this point to make clear to the public that I am not influencing the meeting in anyway and to protect the councillor from the criminal sanctions that apply should the councillor take part.

Where the interest I have declared is not on my Register of Interest Form then I will update the form with the relevant interest to the Monitoring Officer within 28 days.

In certain circumstances I can request a dispensation from these prohibitions.

### **Pecuniary Interests**

As a member, I will have a Pecuniary Interest in an item of business of the Council where:

- a. a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of myself or a member of my family or a person with whom I have a close association to a greater extent than it would affect the majority of the council tax payers, ratepayers or inhabitants of the ward or electoral area for which I have been elected or otherwise of the Authority's administrative area, or
- b. it relates to or is likely to affect any of the Disclosable Pecuniary Interests as listed above, but in respect of a member of your family or a person with whom I have a close association

and that interest is not a Disclosable Pecuniary Interest.

Action to be taken

If I am present at a meeting of the council, or of any committee, sub-committee, joint committee, or joint sub-committee of the authority, and I have a pecuniary interest relating to any business that is or will be considered at the meeting, I must not:

- participate in any discussion of that particular business at the meeting, or if I become aware of my disclosable pecuniary interest during the meeting participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions do not apply to me speaking as a member of the public.

This authority does not require members to withdraw from the room at this point.

### **Non-pecuniary interests**

A non-pecuniary interest is an interest which is not pecuniary (as defined above) but is nonetheless so significant that a member of the public with knowledge of the relevant

facts, would reasonably regard to be so significant that it would materially impact upon my judgement of the public interest

**Action to be taken**

If I am present at a meeting of the council, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of the authority, and I have a Non-pecuniary interest relating to any business that is or will be considered at the meeting, I must:

- Declare the nature and extent of my interest including enough detail to allow a member of the public to understand it's nature.

I may stay, speak, vote and take a full part in the meeting.

## **Registering and declaring pecuniary Interests**

I must, within 28 days of taking office as a member or co-opted member, notify the Authority's Monitoring Officer of any Disclosable Pecuniary Interest as defined by regulations made by the Secretary of State, where the pecuniary interest is mine, my spouse's or civil partner's, or is the pecuniary interest of somebody with whom I am living with as a husband or wife, or as if we were civil partners.

If an interest has not been entered onto the authority's register, then I must disclose the interest to any meeting of the authority at which I am present, where I have a Disclosable Pecuniary Interest in any matter being considered and where the matter is not a 'sensitive interest'.<sup>1</sup>

Following any disclosure of an interest not on the authority's register or the subject of pending notification, I must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, I may not participate in any discussion of, vote on, or discharge any function related to any matter in which I have a Disclosable Pecuniary Interest as defined by regulations made by the Secretary of State.

Additionally, I must observe the restrictions the authority places on my involvement in matters where I have a Disclosable Pecuniary Interest or Pecuniary Interest as defined by my authority.

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<sup>1</sup> A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

# **Broxtowe Borough Council Constitution**

**Document No. 5b – Code of Conduct for Officers**

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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 Standing Orders 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 Director of Legal and Planning Services (as 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 Director of Legal and Planning Services 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 he/she has 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 Standing Orders 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 Director of Legal and Planning Services 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 him or her, 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 his or her 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 Director of Legal and Planning Services 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 Director of Legal and Planning Services, 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 Director of Legal and Planning Services, 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 he/she 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 Director of Legal and Planning Services 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 Director of Legal and Planning Services.  
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 Director of Legal and Planning Services.  
This form will be retained for 7 years.

# **Broxtowe Borough Council Constitution**

**Document No. 6 – 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 Neighbourhoods and Prosperity 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 development control 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 Development Control 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 Director of Legal and Planning Services and the Head of Neighbourhoods and Prosperity 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 Development Control Committee. Training and updating may also take the form of seminars.

Members involved in the planning service should receive training before serving on Development Control 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 DEVELOPMENT CONTROL 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 Director of Legal and Planning Services and Head of Neighbourhoods and Prosperity, 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. The Heads of Neighbourhoods and Prosperity and the Director of Legal and Planning Services 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 Heads of Neighbourhoods and Prosperity and Director of Legal and Planning Services 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 Development Control 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.
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 Development Control 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 Director of Legal and Planning Services.  
This form will be retained for 7 years

# **Broxtowe Borough Council Constitution**

**Document No. 7 – Protocol for Councillor/Officer  
Relations**

**Protocol On Councillor/Officer Relation**

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## **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 his/her 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 he/she 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 Chief Financial 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 his/her stead, or may decline to attend or to provide a representative where he/she is 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.

- (e) 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 he/she has 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**

**Document No. 8 – 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 (eg. 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 (ie. 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 standing orders 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: Phillip Horsfield (Monitoring Officer)  
Contact Details: Directorate of Resources,  
Council Offices, Foster Avenue, Beeston, Nottingham, NG9 1AB  
Tel: 9173230

or

Name: Ruth Hyde (Chief Executive)  
Contact Details: Chief Executive's Office, Town Hall, Foster Avenue, Beeston,  
Nottingham, NG9 1AB  
Tel: 9173255

6.4 Either the Chief Executive or the Monitoring Officer may refer your concern to the Council's Standards 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, 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.

## 6.5 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.

6.6 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.

6.7 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).

# **Broxtowe Borough Council Constitution**

**Document No. 9 – 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

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## Document Control

### Revision History

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001	27/04/16	AB	JW	Amended to facilitate the Committee system.
002	19/10/16	AB	JW	Terms of reference for reporting on election issues.  To amend the approval of Committee meeting dates.
003	19/10/17	JW	JW	Add Animal Welfare Act to SoD for HoPP
003	14/12/16	JW	JW	Amend Environment and Community Safety responsibilities
003	14/12/16	JW	JW	Amend CE delegations to include Liberty Leisure

### Revision History

This document has been distributed to:

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