

# Corporate Select Committee

Date: **Monday 14 March 2022**

Time: **2pm**

Venue: **Council Chamber, County Hall, Martineau Lane, Norwich**

## Membership:

Cllr A Birmingham  
Cllr S Blundell  
Cllr S Clancy  
Cllr E Colman (Chair)  
Cllr N Daubney  
Cllr B Duffin  
Cllr L Hemsall

Cllr J James  
Cllr T Jermy  
Cllr K Mason Billig (Vice-Chair)  
Cllr B Price  
Cllr V Thomson  
Cllr K Vincent

## Advice for members of the public:

This meeting will be held in public and in person.

It will be live streamed on YouTube and, in view of Health and Safety measures to restrict the spread of Covid 19, we would encourage members of the public to watch remotely by clicking on the following link:

[https://www.youtube.com/channel/UCdyUrFjYNPq5psa-LFIJA/videos?view=2&live\\_view=502which](https://www.youtube.com/channel/UCdyUrFjYNPq5psa-LFIJA/videos?view=2&live_view=502which)

However, if you wish to attend in person it would be most helpful if, on this occasion, you could indicate in advance that it is your intention to do so. This can be done by emailing [committees@norfolk.gov.uk](mailto:committees@norfolk.gov.uk) where we will ask you to provide your name, address and details of how we can contact you (in the event of a Covid-19 outbreak). Please note that public seating will be limited.

Councillors and Officers attending the meeting will be taking a lateral flow test in advance. They will also be advised to wear face masks when they are moving around the room but may remove them once seated. We would like to request that anyone attending the meeting does the same to help make the event safe for all those attending. Information about symptom-free testing is available [here](#).

## A g e n d a

### 1. To receive apologies and details of any substitute members attending

### 2. Minutes

To receive the minutes of the previous meeting held on 17 January 2022 **Page 4**

### 3. Members to Declare any Interests

If you have a **Disclosable Pecuniary Interest** in a matter to be considered at the meeting and that interest is on your Register of Interests you must not speak or vote on the matter.

If you have a **Disclosable Pecuniary Interest** in a matter to be considered at the meeting and that interest is not on your Register of Interests you must declare that interest at the meeting and not speak or vote on the matter

In either case you may remain in the room where the meeting is taking place. If you consider that it would be inappropriate in the circumstances to remain in the room, you may leave the room while the matter is dealt with.

If you do not have a Disclosable Pecuniary Interest you may nevertheless have an **Other Interest** in a matter to be discussed if it affects, to a greater extent than others in your division

- Your wellbeing or financial position, or
- that of your family or close friends
- Any body -
  - Exercising functions of a public nature.
  - Directed to charitable purposes; or
  - One of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);

Of which you are in a position of general control or management.

If that is the case then you must declare such an interest but can speak and vote on the matter.

### 4. To receive any items of business which the Chairman decides should be considered as a matter of urgency

### 5. Public Question Time

Fifteen minutes for questions from members of the public of which due notice has been given. Please note that all questions must be received by the Committee Team ([committees@norfolk.gov.uk](mailto:committees@norfolk.gov.uk)) by **pm Wednesday 9**

**March 2022.** For guidance on submitting a public question, view the Constitution at [www.norfolk.gov.uk/what-we-do-and-how-we-work/councillors-meetingsdecisions-and-elections/committees-agendas-and-recent-decisions/ask-aquestion-to-a-committee](http://www.norfolk.gov.uk/what-we-do-and-how-we-work/councillors-meetingsdecisions-and-elections/committees-agendas-and-recent-decisions/ask-aquestion-to-a-committee)

**6. Local Member Issues/Questions**

Fifteen minutes for local member to raise issues of concern of which due notice has been given. Please note that all questions must be received by the Committee Team ([committees@norfolk.gov.uk](mailto:committees@norfolk.gov.uk)) by **5pm on Wednesday 9 March 2022.**

- |  |                 |
|--|-----------------|
| <b>7. Smarter Working Programme Update</b><br>Report from Executive Director of Strategy & Transformation  | <b>Page 10</b>  |
| <b>8. MyOracle programme update</b><br>A verbal update from Cabinet Member for Innovation, Transformation and Performance                                    |                 |
| <b>9. Digital Connectivity in Norfolk</b><br>Report by the Executive Directors for Finance and Commercial Services and Community and Environmental Services. | <b>Page 20</b>  |
| <b>10. Contract Standing Orders update</b><br>Report by Executive Director for Finance and Commercial Services   | <b>Page 25</b>  |
| <b>11. Constitution Update</b><br>Report by the Director for Governance  | <b>Page 70</b>  |
| <b>12. Corporate Property Policies</b><br>Report by Executive Director for Finance and Commercial Services   | <b>Page 368</b> |
| <b>13. Forward Work Plan 2022/23</b><br>Note by the Executive Director for Strategy & Transformation   | <b>Page 375</b> |

Tom McCabe  
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Date Agenda Published: 4 March 2022



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## Corporate Select Committee

Minutes of the Meeting Held on 17 January 2022 at  
2pm in Council Chamber, County Hall, Martineau Lane Norwich NR1 2DL

### Present:

Cllr K Mason Billig (Chair)  
Cllr A Birmingham  
Cllr S Blundell  
Cllr B Duffin  
Cllr L Hemsall (from 2.08pm)

Cllr J James  
Cllr T Jermy  
Cllr R Savage  
Cllr B Price  
Cllr V Thomson  
Cllr K Vincent

### Substitute Members Present:

Cllr Robert Savage for Cllr E Colman

### Also Present:

Cllr Andrew Jamieson

Cabinet Member for Finance

Cllr Mason Billig opened the meeting and advised that the Chair Cllr Ed Colman was unavailable for the meeting and as Vice Chair of the committee she would be chairing the meeting.

### 1 Apologies for Absence

- 1.1 Apologies for absence were received from Cllr Ed Colman (Substituted by Cllr Robert Savage). Cllr Clancy was also absent.

### 2 Minutes

- 2.1 The minutes of the meeting held on 21 November 2021 were agreed as an accurate record and signed by the Chair.

### 3 Declarations of Interest

- 3.1 There were no declarations of interest.

### 4 Items of Urgent Business

- 4.1 There were no items of urgent business.

### 5 Public Question Time

5.1 There were no public questions.

## 6 **Local Member Issues/Questions**

6.1 There were no local Member questions.

## 7 **2021 Staff Survey ‘Our Voice Our Council’: Analysis, Engagement and Action Planning and Planning for 2022 Staff Survey**

7.1 The annexed report (7) by the Executive Director for Strategy & Transformation was received and presented by Director for People.

7.2 The report followed on from the initial findings that were shared with the committee on 12<sup>th</sup> July 2021. The report focuses on how the results have been analysed and used to understand themes across the Council and actions as well as informing work of specialisms and projects.

7.3 The key elements of the reported were highlighted as the following:

- Careful analysis of the survey had identified areas for ongoing discussions and actions.
- The report, key themes and actions arising was a regular item on the agenda of the Internal Corporate Board.
- One of the key elements to improved performance is to provide clarity and direction and these themes are reflected within the individual's performance development plans with line managers. This improves engagement and wellbeing.
- Connection with staff working from home, especially new staff members has been a key element to pay attention to and new initiatives have evolved to make employees feel connected, cared for, understand and motivated.
- The survey work is used to aid external inspections, for example Ofsted, of departments and services.
- The key new metrics data have all shown improvements from previous surveys.
- The survey reported that black colleagues in Adult's and Children's departments were nearly twice as likely as white colleagues to experience bullying or abuse from service user, relatives, or the public.
- Work has been undertaken to support black and Asian colleagues to update and improve policies to tackle racially abusive behaviour.
- Every quarter various employee groups representing colleagues with protected characteristics have an opportunity to meet and discuss issues with Head of Paid Service and Director of People.
- Within the senior management recruitment process a panel consisting of colleagues with varying protected characteristics is involved with selection.
- There is an intention to undertake a report into organisational wellbeing although it was acknowledged that existing measures in this area are performing well.
- The survey outcomes had enabled the leavers survey to be redesigned to come in line with the staff survey.

- The survey indicated that we have not improved in how innovative we view ourselves through the pandemic but there was a focus to see how this area could be improved with more working remotely..
- Norfolk County Council won a national award for its work on its staff survey. The Public Service People Managers Association (PPMA) awarded NCC an Excellence in People Management Award 2021 for the Best Change Management Organisational Development Initiative, for the change work involved on the Staff Survey.

7.4 The following was discussed, and responses noted to questions:

- Training for members, relating to help engaging with their communities and to understand diversity and inclusion, was about to be rolled out with a pilot being conducted by members of the committee.
- Letters had been sent to key services users advising them that racially abusive behaviour towards staff will not be tolerated.
- More information and data regarding the leavers survey was requested for a future meeting. Some further work on the leavers survey to spot trends and themes was ongoing. The turnover rate of staff was around the 12%.
- Whilst all departments had experienced additional pressures during the pandemic, Adult Social Services were experiencing extreme winter pressures on a number of fronts including retaining and recruitment of staff. Children's services adapted their engagement during lockdown periods to maintain their statutory duties.
- It was acknowledged that the lockdown period will have affected the data arising from the survey, although the survey was issued shortly before the first lockdown and then again later in the year.
- The last 18 months had provided the building blocks of inclusion and diversity to be put in place and to work from that platform to improve training and understanding. This will rise to a better understanding overall and gives staff a voice from which to be heard and understood.
- Members considered that their role with supporting staff was important and that the dynamics have changed now that face to face engagement is happening less. Members were interested to ascertain whether a question could be added to the survey enquiring how they could support staff in the future.

7.5 The committee **RESOLVED** to:

- Acknowledge the key messages from this year's survey and the proposed next steps.
- Support the performance, engagement and wellbeing of colleagues
- Acknowledge how the current methods of working since March 2020 have changed the ways Members problem solve and innovate and how we encouraged continued improvement in how we become a more innovative Council.

## 8. Gender Pay Gap & Workforce Equality, Diversity and Inclusion Plan

8.1 The annexed report (8) by the Executive Director of Strategy and Transformation was received. The report was presented by the Director for People.

8.2 The Director for People gave a presentation on the report ([available from the committee's webpages](#)). The committee noted:

- The data used is always out of date as the processes required of collating and publishing is lengthy and the requirement to publish was delayed by Central Government due to the pandemic.
- The report picks up on the direction of travel of how the gap is closing.
- The gap is measured by using averages, not comparing job to job and pay rates.
- The County Council has predominately a female workforce, approximately 65% to 70%, mainly due to the nature of work attracting one gender over another.

8.3 In response to member's questions the committee noted:

- Whilst there were no specific policies in place to support employees back from career breaks the ability to flex hours and days was being used to assist.
- Flexing hours was also a critical element in helping woman apply for and manage within senior roles.
- There is evidence to indicate that men are more likely to influence their starting salary than women, at the Council a job evaluation and grade structure was in place to ensure all new starters were treated equally.
- Policies were in place for helping woman through the menopause.
- Steps were in place to support woman more to apply for senior roles and this would form a focus for the next action plans.
- The current make-up of the Council's cabinet (9 men and 1 woman) was questioned, although in contrast it was noted that until recently a local District Council had a majority female cabinet.
- Focus on recruitment processes had identified that use of language and positioning of advertisements as "positive action" can be targeted towards one gender or another to encourage a greater take up.
- There has been significant improvement in the data on younger people being recruited to the council. It was acknowledged that the successful apprenticeship scheme had helped.
- It was thought that highlighting case studies could be a good route to help recruitment. The example of the first female firefighter in the UK, which was in Norfolk, was cited.
- Employees were asked within the staff survey whether they felt they were adequately rewarded for their work.
- The Council had 5 objectives to help tackle discrimination and prejudice and looked to lead by example in all the services areas to ensure that Equality Diversity and Inclusion was embedded within the working culture.

8.4 The Committee **RESOLVED** to:

1. Endorse the narrative and proposals as set out in Appendix B as key actions to address gender pay
2. Acknowledge and provided direction on the proposed NCC Workforce Equality, Diversity and Inclusion Strategic Action Plan as set out in the presentation .

## **9.0 Strategy and Business Planning at Norfolk County Council**

9.1 The annexed report (9) by the Executive Director of Strategy & Transformation was received, and a verbal presentation was given by the Head of Strategy & Policy.

9.2 The report outlined the process that had been followed to develop the newly launched County Council Strategy *Better Together, for Norfolk 2021-25*, which also informs the proposed approach to business planning for 2022/23 and into 2022/23 and beyond.

9.3 The following key points was noted:

- A “double diamond” approach was adopted to develop the strategy, to understand what was creating pressures and anxieties within the Norfolk community.
- A number of key engagement events took place to establish the recovery priorities of the community coming out of the Covid 19 pandemic and with partners and stakeholders discussing what are the trends and opportunities that the Council should be focusing upon.
- The engagement events helped shaped the themes particularly around reducing the widening inequalities in the county around health, wealth and digital exclusion.
- The five key priorities within the strategy had not changed but a refresh to help refocus efforts on the priorities that will make the greatest impact in a post pandemic environment had taken place.
- Refreshing business planning pyramid seeks to ensure that planning is no longer just a departmental exercise, and that all areas of the Council are expected to work together to ensure the strategy objectives are being planned for and reflected in a corporate delivery plan.
- The planning cycle will start earlier than previously, and a business planning group has been set up with representation for all services and departments to look at the cost saving priorities. This approach is more cross-functional than individual departments all undertaking this work.
- Governance of the new system that effects the transformation programme will also be undertaken in one place to make this more effective.
- The corporate delivery plan will be used to bring together the significant activity that will drive the delivery of the strategy.
- A series of workshops will be held with senior leadership personnel to identify what best practice looks like as well as aligning the risk register much more closely to performance.
- Data collected will be processed and collated to enable external benchmarking so that comparisons can be made within the Council’s peer group on performance.

9.4 The following was discussed, and responses noted to questions:



- Approximately 50% (1000 people) of those who joined the Norfolk Residents Panel responded to the survey. This group will be followed up to engage at the next level which would include partners such as Town and Parish Councils.
- Concerns were expressed that younger people mentioned in the report had suffered from the suspension of their social groups, and although lockdown restrictions had eased, social distancing requirements where making a return to normal activities difficult. It was acknowledged that some organisations had returned to a pre pandemic position. However, the younger generation tended to be more technology minded and older styles of social engagement were not as appealing as previous generations had experienced.
- The statistic referred to in the report regarding inequality and deprived areas was an issue members agreed they wished to work hard to reduce as quickly as possible.

9.5 A motion was proposed by Cllr Ben Price to:

Recommend that officers look at the work of the Norwich Climate Commission and the work of other commissions around the country to assess the work that has been undertaken and to make an assessment as to whether the County should adopted its own County Climate Commission to inform this cross party policy.

The motion was seconded by Cllr Terry Jermy. A vote took place and the motion was **LOST**.

Cllr Price offered to help officers to include the principle of the above proposal within a wider piece of work on climate issues that was already being undertaken.

9.6 The committee **RESOLVED** to agree to:

- Acknowledge the work to date to deliver the strategy
- Endorse the feedback on the proposed approach to business planning as outlined in section 4
- The proposed next steps as outlined in section 5.

## 10.0 **Forward Work Programme**

10.1 The annexed report (10) by the Executive Director for Strategy and Transformation was received.

10.2 The committee **RESOLVED** to agree the forward work programme. It was noted that the previous meeting's addition to the programme had not been added to the plan. Cllr Price requested to be emailed when this was added and the timescale agreed.

**Meeting concluded at 3.46pm**

# Corporate Select Committee

Item 7

<b>Report title:</b>	<b>Smarter Working Programme Update</b>
<b>Date of meeting:</b>	<b>14 March 2021</b>
<b>Responsible Cabinet Member:</b>	<b>Cllr Fitzpatrick (Cabinet Member for Innovation, Transformation and Performance)</b>
<b>Responsible Director:</b>	<b>Paul Cracknell, Executive Director, Strategy and Transformation</b>

## **Introduction from Cabinet Member**

The Smarter Working Programme was established following the adoption of the 2020-2024 Medium-Term Financial Strategy. With the aim of achieving savings through implementing more business-like Smarter Working; utilising physical space and technology to maximise flexibility for customers and staff whilst effectively delivering good outcomes. By necessity, focus during the pandemic has been on enabling Hybrid working, to support the ongoing delivery of Services. An external review of the programme, in Q4 2021, made strategic recommendations about the future direction of the programme, which were accepted by Executive Directors on the 6<sup>th</sup> January 2022.

## **Executive Summary**

A report was presented to the Corporate Select Committee in November 2021, which outlined the controlled reopening of our office spaces from the 4<sup>th</sup> October 2021 and the intention to externally review the programme and ensure it is positioned to deliver the outcomes required of it in the future. This review was concluded in December 2021, which coincided with the introduction of national “Plan B” measures, including a directive to work from home where you can.

Our offices remained open to those colleagues who needed to attend for service delivery or personal wellbeing reasons, with all other colleagues asked to work from home. National measures were subsequently lifted in January 2022 and the work from home request rescinded across all our premises on the 27<sup>th</sup> January 2022.

A strategic approach for the implementation of the external review findings, on a phased basis, has been agreed and commenced. This report provides an overview of those findings, what they mean for the Programme and the phases through which they will be delivered.

The Corporate Select Committee will also receive a presentation at the meeting.

## **Actions required**

**The Select Committee are asked to:**

- 1. Provide feedback on the approach outlined and identify any areas they feel need to be considered further.**
- 2. Confirm if a standing update on progress at each future committee is appropriate.**
- 3. Consider their immediate Hybrid Working needs and issues, as well as longer term Smarter Working aims, in anticipation of upcoming engagement with the Programme.**

## **1. Background and Purpose**

### **1.1. Background**

Following the report to committee in November 2021 a review of the programme to date (Phase 1) was conducted by an independent external contractor, with extensive local government experience in this area, and focused on 3 lines of enquiry:

- 1) Understanding the delivery to date, sustainability, and plan moving forward.
- 2) Stakeholder interviews to triangulate concerns and issues.
- 3) An assessment of the savings tracker and risk to forecasted savings.

In parallel the programme also coordinated the implementation and subsequent removal of national “Plan B” covid restrictions.

### **1.2. Purpose**

The purpose of this report to the Corporate Select Committee is to:

- Provide an update following the introduction, and subsequent removal, of national “Plan B” measures
- A summary of the programme review findings
- Summarise the agreed approach for implementation of the review findings

## **2. Progress**

### **2.1 Smarter working and our workforce: introduction and removal of “Plan B” restrictions**

Following the introduction of National “Plan B” measures, including a directive to work from home where you can, in December 2021, our offices remained open to those colleagues who needed to attend for service delivery or personal wellbeing reasons, with all other colleagues asked to work from home. National measures were subsequently lifted in January 2022 and the work from home request rescinded across all our premises on the 27<sup>th</sup> January 2022.

This process worked well, with the teams involved pulling on their experience from October 2021. As a result of the review findings a focused Task and Finish Group, led by Paul Cracknell, Executive Director Strategy and Transformation, has been set up to coordinate the activity and communications around the removal of restrictions on our premises, as well as ensuring the necessary foundational elements of the review findings are effectively implemented.

The Group has short term accountability, with the mandate of all Executive Directors, for central decision making and communications in relation to both the phased increase in the use of our offices as well as embedding key review findings. The Group will persist during February and March 2022 and will disband when it is appropriate for its accountabilities to be handed over to the new Smarter Working Steering Group, which is to be created as a recommendation of the review.

One of the first decisions made by the Group was a strategic approach to the Car Parking arrangements at County Hall. The original car parking “rules” were designed with the input and agreement of all Directorates and with the explicit aim of encouraging and enabling socially responsible use of transport options for County Hall staff when commuting to the campus. Our collective lack of both experience, and a reliable evidence base, in post-pandemic working patterns makes it difficult to make evidence-led decisions on how we should operate Car Parking at this site in the future, so all restrictions have been removed for the time being.

This will allow the soon to be installed Automatic Number Plate Recognition (ANPR) system to passively gather usage data over the coming months, without the car parking “rules” affecting the behaviour of colleagues and affording us our first insight into usage of the car park, post pandemic. This approach also allows us to respond to any future increase or decrease in National restrictions.

When combined with other data on office attendance and working patterns the Group is confident that a balance between the needs of Services, ease of use and fairness to colleagues, and environmentally responsible transport choices can be achieved. This will allow us to shift the conversation from car parking as a standalone issue, to how we enable members and colleagues to make individual choices about their environmental impacts as well as driving achievement of NCCs environmental aims.

Since 27<sup>th</sup> January 2022 we have seen a steady increase in those colleagues attending office premises across the estate, returning to similar levels observed between October and December 2021. Feedback on the communications and support provided to staff has been positive with it being explicit that we are in a learning phase and continuous improvement over time is to be expected.

More detailed guidance for Services, around the boundaries within which they can take advantage of Hybrid Working, is being produced and will be published by the Task & Finish Group. This will include guidance tailored for Members, All staff and Managers (people who lead people).

This is a complex subject with significant implications, not least from an HR perspective, and so formal research has been commissioned, along with supporting regular feeds of data so that we can be sure the final guidance balances the needs of Service Users and Residents, Officers and Members, our Environmental Strategy and effective and efficient use of taxpayer's money.

The current guidance remains that our offices are open, and we welcome Officers and Members to the premises, however we do still have infection control measures in place, as determined by Public Health colleagues. These measures continue to restrict the overall capacity of the premises to 50%, restrict the total occupancy of specific spaces like meeting rooms, or the council Chambers, and limiting the mixing of departmental cohorts. These measures are complimented by guidance and recommended etiquette that includes regular covid testing and the wearing of face coverings in communal spaces.

Pending the publication of research led guidance, services have discretion as to the extent to which they make use of Hybrid Working and have been asked to discuss this with their teams and balance their needs and concerns with those of their Service users to agree local arrangements for office attendance.

## 2.2 Smarter Working Programme Review: Findings & Recommendations

### Key definitions and Context:

#### Hybrid Working (Operational Continuity and Flexibility)

The ability to provide choice (wherever possible) over where work is done without detriment to:

- Collaboration and leadership
- Team comradery
- Performance
- Growth and development

And by consequence reduce costs to NCC.

#### Smarter Working (*Transformation and innovation*)

Driving sustainable and ongoing improvements to Service Delivery, Colleague Experience, Environmental aims and Efficiency & Effectiveness, by removing duplication, waste and low value work through the application of Technology and Innovation.

#### Worker types across NCC

##### One Base/ Fixed Base

- Client facing and/or works in a fixed location.
- Rarely or never travels for work and can't regularly work elsewhere.
- Role often dictates when and where work is done.
- People who can't work from home.

##### Hybrid

- Has NCC admin base.
- Mix of home, office and / or another workplace.
- Can access desks at NCC / partner locations or work on the go.
- May combine community work (client / site visits) with administration.

##### Community

- All or most work carried out in the community, in client's homes or premises.
- Rarely requires workspace but may attend training or meetings.
- Role dictates when and where work is done.

**The key findings of the review were:**

- A programme reset and clarity on purpose / direction is required, and a distinction needs to be made between the near-term constraints (Phase 1), normalising hybrid working (Phase 2) and longer term delivery and culture of smarter working (Phases 3-n).
- There needs to be a clear forward plan (even if subject to change) that shows what will be delivered and this needs to be communicated so teams can prepare and ready themselves.
- The programme needs to move from its current reactive phase, necessitated by the pandemic response, and increase its focus on Member & Colleague user needs, to inform medium and long-term decisions and deliveries, whilst retaining room for flexibility as understanding of needs evolves.
- Shifting from a programme of work to a capability that supports the development of sustainable Smarter working, for every Member and Colleague, in every NCC department, and can prove the value of the approach.
- The value delivered should not be solely focused on Financial benefits but should also include benefits to Service users and Residents, to Colleagues, and to NCC's Environmental aims.
- Smarter Working needs to create a legacy beyond delivering enablers, ensuring that sustainable behaviours and leadership persist to make Smarter Working "business-as-usual" across NCC in the medium and long term.

**The resulting strategic recommendations are:**

- 1) Reaffirm the direction of the programme by agreeing the purpose, aspirations, and objectives with NCC leadership.
- 2) Put in place fit for purpose governance that is user and business needs led, with the programme commissioning (driven by needs and requirements) and providing assurance.
- 3) Develop the plan that closes-out and delivers sustainable hybrid working, including the appropriate controls, support for managers, training, and appropriate flexibility for all colleagues, to avoid the erosion of benefits.

- 4) Prove smarter working and the value of a capability skilled at leveraging enablers to secure outcomes through technology and innovation. Track the benefits.
- 5) Leverage Smarter Working capability from within other directorate led programmes that have transformational objectives. Use this capability to embed a legacy (forward looking culture) of continuous improvement and take advantage of new ways of working.

### **2.3 Smarter Working Programme Review: Implementation**

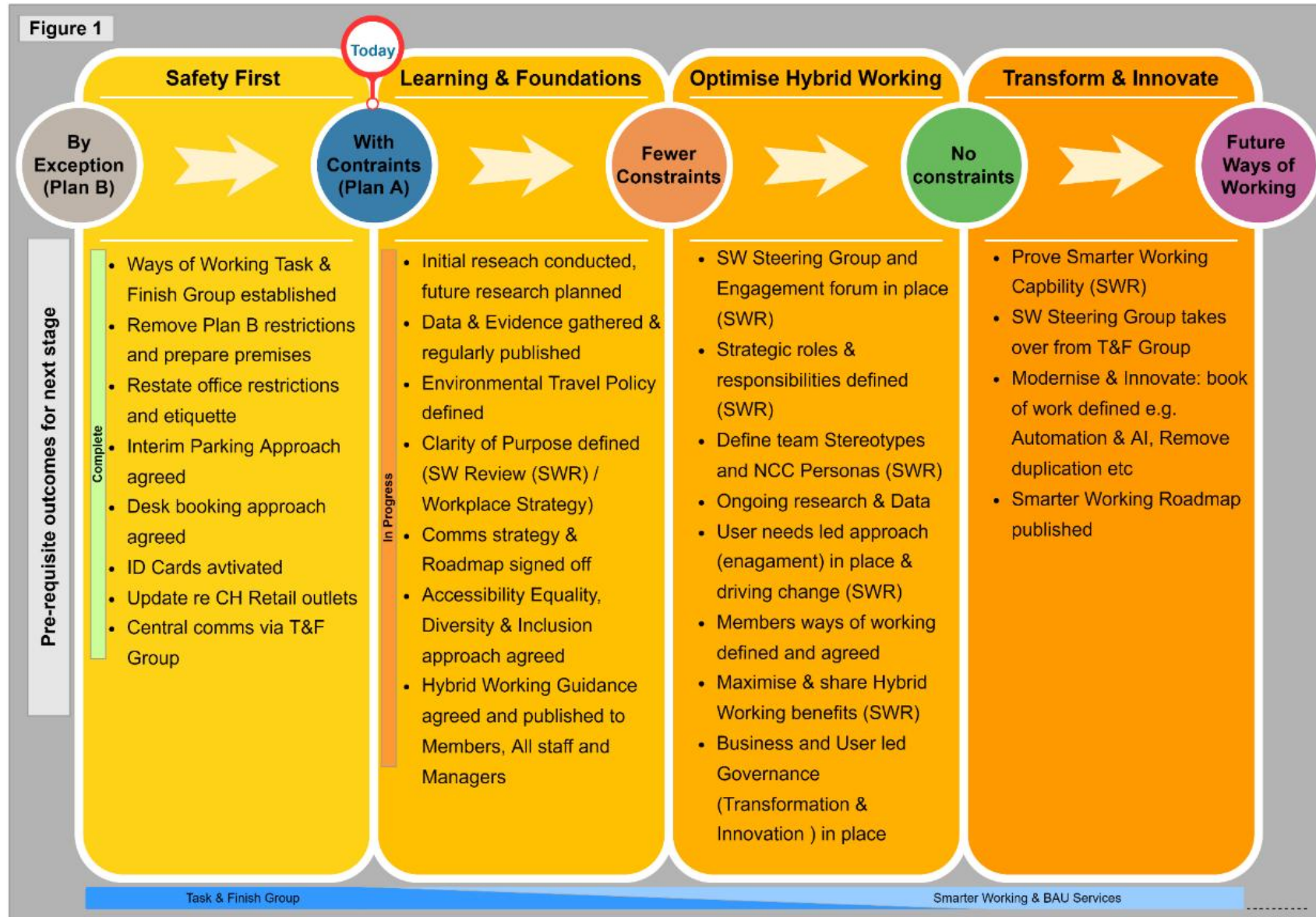
A strategic approach has been agreed to embed the recommendations of the review, which were agreed by Executive Directors on 6<sup>th</sup> January, and activity has already commenced.

A Ways of Working Task and Finish Group has been established, chaired by Paul Cracknell and with representatives of all Directorates. This forum has assumed accountability for all communications to colleagues relating to ways of working and is also responsible for driving the key decisions and outcomes that lay the foundations for future phases (see figure 1), including the commissioning of a research and evidence base upon which confident decisions can be made, as well as creating the artefacts and process required to govern the programme sustainably and effectively.

A new Smarter Working Steering Group will be established by the Task and Finish Group, which will be superseded by it, once the key elements are in place.



Figure 1



## **2.4 Smarter Working Programme Review: Financial Tracking**

The programme review included an assessment of the Smarter Working savings tracker, produced by Finance. The savings tracker details those savings which contribute to Smarter Working outcomes across all directorates and as such represents a subset of the wider monitoring of savings delivery within the 2021-22 budget undertaken as part of regular financial monitoring and reported to Cabinet. Whilst the review identified no risks to anticipated benefits, it was recognised that the tracker served simply to collate existing information and reporting. As such, the delivery of benefits is led and reported on within individual directorates.

The review considered that from a Smarter Working perspective, the approach should be refined to drive an overall programme focus on delivery of outcomes, lead to outcomes that would not have been achieved without it, supported by updated governance arrangements. The review therefore recognised the need for increased governance of Smarter Working investments and tracking of expected benefits and recommended that it is aligned to the Transformation and Innovation Governance process under development, to provide assurance on the successful delivery of benefits for all Transformational change across the organisation.

This approach is currently being defined in conjunction with Finance and the associated reporting will replace the previous Smarter Working Tracker. The Smarter Working Programme will serve as the initial pilot programme for this approach.

## **2.5 Next steps**

Implementation of the review findings will continue as outlined in 2.3 above. It is proposed that progress reports be presented to the committee at each meeting in 2022, unless the chair requests a written update instead.

The volume of activity and deliveries will increase as we conclude the learning and foundations phase, towards the end of this financial year, and we also anticipate being able to share the initial benefits tracking around the same time.

The Task and Finish Group are keen to engage with Members to ensure that Task & Finish / Smarter Working decisions and deliveries are aligned to meeting their needs and this activity will be coordinated via Democratic Services.

### **3. Actions required**

#### **3.1. The Select Committee are asked to:**

- 1. Provide feedback on the approach outlined and identify any areas they feel need to be considered further.**
- 2. Confirm if a standing update on progress at each future committee is appropriate.**
- 3. Give consideration to their Hybrid Working needs and issues, in anticipation of upcoming engagement with the Programme**

### **Officer Contact**

If you have any questions about matters contained in this paper, please get in touch with:

**Officer name:** Sam Pittam-Smith

**Tel No.:** 07810 888272

**Email address:** [s.pittamsmith@norfolk.gov.uk](mailto:s.pittamsmith@norfolk.gov.uk)



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Version 1.0

# Corporate Select Committee

Item No. 9

<b>Decision making report title:</b>	<b>Digital Connectivity in Norfolk</b>
<b>Date of meeting:</b>	<b>14 March 2022</b>
<b>Responsible Cabinet Member:</b>	<b>Cllr Tom FitzPatrick (Cabinet Member for Innovation, Transformation and Performance)</b>
<b>Responsible Director:</b>	<b>Tom McCabe – Executive Director, CES &amp; Simon George – Executive Director, Finance &amp; Commercial Services</b>

## Executive Summary

Improving all forms of Digital Connectivity across the County has long been a priority for the County Council. The superfast broadband availability has increased from 42% in 2012 to over 96% today. The Council's stated ambition is to become the best-connected rural county in the UK with broadband and wireless services available to all.

Access to affordable, good quality broadband and mobile connectivity is now more important than ever. Over the last 18 months digital connectivity has allowed many of Norfolk's businesses to keep going through the pandemic, enabled residents to work from home, to learn from home and to cope better with isolation through online commerce and social interactions.

This report will cover three types of digital connectivity. Broadband at superfast and ultrafast speeds, mobile telephony and sensor networks for connect devices. The report provides an update on progress achieved across these areas as well as considering what activities will be required to enable further improvements.

## Actions required

- 1. To consider the progress made and prospects for further improvement.**
- 2. To advise whether the Committee would wish to consider any alterations or additions to the current plans.**

## 1. Background and Purpose

- 1.1. Digital connectivity is essential for businesses to operate, innovate and grow. It is also needed for efficient public service delivery and for schools, colleges and universities to educate. Norfolk's residents need sufficiently fast and affordable connectivity to benefit from all the digital opportunities that are now considered essential and also to ensure Norfolk remains an attractive destination for tourism.

Since members were last briefed on the status of digital connectivity projects there has been considerable progress although it has been faster in some areas than in others. This is summarised below and will be explained during a presentation.

**The Better Broadband for Norfolk (BBfN)** programme is now in phase 3 and is rolling out ultrafast (Gigabit capable) broadband to circa 9,000 premises across rural Norfolk. The programme is due to complete in Summer 2023 and has currently installed ultrafast broadband to 3,200 premises. The combination of previous BBfN projects and increasing interest from commercial suppliers means that Superfast broadband coverage (>24Mbps) across Norfolk now stands at 96.15%, up from 42% at the start of the BBfN programme. This work is expected to bring the coverage figure up to at least 97%

**Ultrafast (Gigabit capable)** broadband coverage across Norfolk is now at 41.17%, up by 27.14% over the previous quarter. This is largely due to Virgin Media completing the upgrade of their network to gigabit capability. However, it should be noted that this still lags behind the national average of 67%.

**The Local Full Fibre Network programme (LFFN)** delivered by Norfolk County Council and funded by DCMS and MHCLG/DHLUHC via the LEP was successfully completed in January 2022, installing ultrafast fibre broadband to 394 public buildings, including: Council offices, Libraries, Fire Stations and Schools. This means faster connectivity at lower costs.

Norfolk County Council continues to work with commercial suppliers, which are showing particular interest with large investments and significant build plans in Norfolk.

Norfolk is in scope of the first live wave of DCMS Project Gigabit, which supports the government's long-term ambitions to provide full fibre to 15 million properties by 2025 and all by 2033. This initiative targets government funding at the 20-30% of (Norfolk) properties that are not deemed commercially viable.

**Project Gigabit** Winter Update was recently published by DCMS/BDUK and includes the following information about Norfolk.

"The start date for the procurement is likely to be by the end of Apr 2022 with the estimated contract commencement date of Jan-Mar 2023. The contract value is expected to be £115-£195m with an estimated number of uncommercial premises determined to be 111,400. In Feb 2022, BDUK published a draft list of premises and budget to suppliers and will work with the market over the next month to shape the intervention area ahead of formal procurement. A formal outcome of this review is expected by the end of Apr 2022."

**The DCMS/BDUK Gigabit voucher scheme** is also available in Norfolk and plans are in development to promote the availability of improved broadband services and voucher schemes to residents and businesses.

**Fixed Wireless (FWA) LFFN Extension** proposals have been submitted to the New Anglia LEP to access around £400k of funds. If successful this will be used to provide high speed internet connectivity to public sector buildings including village halls using a combination of fibre and wireless technologies to connect villages that were not previously considered economically viable.

**Mobile Telephony** remains a frustration given that coverage has not improved as fast as broadband. Unlike Broadband, mobile telephony cannot be directly funded by the Council and so the approach taken is to help the four mobile network operators to improve, increasing awareness of coverage gaps and removing barriers to upgrades.

The independent mobile study conducted by the Council in 2018 showed 82% voice coverage. The areas of poor coverage were surveyed again in 2020 and coverage has improved to 84%. 5G has also started being deployed in some high population density areas (Norwich & Great Yarmouth).

**The Shared Rural Network (SRN)** is a £1Bn joint investment between DCMS and the four mobile network operators to first address partial “not spots” and then areas that have no coverage from any operator. This work has started and is due for completion by the end of 2025 with combined coverage available across 95% of the UK. Further details on this project will be provided in the presentation.

**The Norfolk and Suffolk Innovation Network** is now available almost everywhere across Norfolk and in many parts of Suffolk. This LoRaWAN long range wide area radio network (funded by the New Anglia LEP) allows sensors to communicate free of charge with the 84 base stations that the Council has so far deployed. Further details on this project will be provided in the presentation.

## **2. Proposals**

- 2.1. Members will receive a presentation at the meeting from the Director IMT & Chief Digital Officer to provide further details including coverage maps to stimulate discussion in shaping the ongoing efforts of the Council to improve availability, speed and choice of digital connectivity available across the County.

Consideration should be given to any digital connectivity access gaps remaining after the various initiatives described in this paper and the presentation have been completed.

## **3. Impact of the Proposal**

- 3.1. The impact of the proposal will be a programme of work to continue improving digital connectivity across the County.

## **4. Evidence and Reasons for Decision**

- 4.1. The proposal seeks to achieve a balance between the rate and scope of improvement and the costs incurred by the Council.

## **5. Alternative Options**

- 5.1. It could be decided to retain the current set of activities or the committee may wish to further investigate alternatives.

## **6. Financial Implications**

- 6.1. All current activities are funded. The costs are largely provided by external organisations (DCMS, DLUHC/New Anglia LEP and BT Openreach through gainshare). Any additional activities considered would need to be costed.

## **7. Resource Implications**

### **7.1. Staff:**

Steve Cunningham in IMT has succeeded Karen O’Kane as the Council’s dedicated Digital Connectivity lead officer. Steve is supported by a small project team as required for the various initiatives.

### **7.2. Property:**

n/a

### **7.3. IT:**

The provision of Digital Connectivity is a key component of the IMT service and the Council’s Digital Strategy.

## **8. Other Implications**

### **8.1. Legal Implications**

n/a

### **8.2. Human Rights implications**

n/a

### **8.3. Equality Impact Assessment (EqIA) (this must be included)**

An EQIA will be undertaken to review the implications of any further Digital Connectivity projects.

### **8.4. Health and Safety implications (where appropriate)**

n/a

- 8.5. **Sustainability implications** (where appropriate) Digital technologies, and the ability to access them, can help to reduce the carbon footprint of residents and businesses. For example, use of digital technology can reduce travel by providing alternative ways to access services.

### **8.6. Any other implications**

n/a

**9. Actions required**

- 9.1. **1. To consider the progress made and prospects for further improvement.**  
**2. To advise whether the Committee would wish to consider any alterations or additions to the current plans.**

**10. Background Papers**

None

**Officer Contact**

If you have any questions about matters contained in this paper, please get in touch with:

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# Corporate Select Committee

Item No:10

**Report Title: Contract Standing Orders update**

**Date of Meeting: 14 March 2022**

**Responsible Cabinet Member:**

**Cllr Andrew Jamieson** (Cabinet Member for Finance)

**Responsible Director:**

**Simon George, Executive Director of Finance and Commercial Services**

## **Executive Summary**

The Corporate Select Committee is charged with considering changes to the Contract Standing Orders.

- 1) At its meeting on 8 November 2021, Cabinet asked the *“Executive Director of Finance and Commercial Services to propose changes to the Contract Standing Orders and the Financial Regulations to enact recommendations [set out in the Natural Norfolk: Progress on delivering the Environmental Policy report]”*.
- 2) In addition we have taken the opportunity to review the Contract Standing Orders against relevant strategies and to propose further updates.
- 3) To reflect the UK’s exit from EU, and other legislative changes, the Director of Governance has made technical amendments to the Contract Standing Orders.

## **Recommendations / Action Required**

The Select Committee is asked to:

1. Consider the proposed amendments to the Contract Standing Orders and recommend these to Full Council.

## 1. Background and Purpose

- 1.1. This paper proposes further updates, to reflect Cabinet's decision for the Executive Director of Finance and Commercial Services to propose changes to the Contract Standing Orders and the Financial Regulations to enact recommendations reflected in the *Natural Norfolk: Progress on delivering the Environmental Policy* report and to align Section 18 (Social Value) of the Contract Standing Orders with current strategies.
- 1.2. The Director of Governance has made technical amendments to the Contract Standing Orders to reflect the UK's exit from the EU and other legislative changes.

## 2. Proposal

- 2.1. The committee is asked to endorse the proposed amendments to the Contract Standing Orders, as set out below.

### Alignment with strategy documents

- 2.2. The Council's relevant strategies, and other strategic requirements it must have regard to, are set out in:

2.2.1. *Better Together, for Norfolk*;

2.2.2. *Norfolk County Council's Environmental Policy*;

2.2.3. *Norfolk Spatial Strategy*; and

2.2.4. the government's *National Procurement Policy Statement*.

- 2.3. The proposed changes reflect the following policy drivers.

#### 2.3.1. New businesses, jobs, and skills

Better Together, for Norfolk requires consideration of opportunities that support skill development, adding specific reference to training opportunities in high growth sectors and green, high-value businesses.

The National Procurement Policy Statement requires explicit consideration for opportunities that support entrepreneurship and help new and/or small businesses grow, when letting contracts.

#### 2.3.2. Resilient cohesive community

Better Together, for Norfolk expands the existing requirement to have regard for community and client capacity, adding specific reference to supporting training opportunities and recruitment in the volunteer sector.

#### 2.3.3. Technological innovation

Better Together, for Norfolk and the National Procurement Policy Statement requires that we consider opportunities that support technological innovation, by having regard for the use of disruptive technologies and business models throughout the supply chain.

#### 2.3.4. Supplier diversity

Expanding on the existing Contract Standing Orders requirements regarding supplier diversity, the National Procurement Policy Statement requires consideration of opportunities that support small start-ups, small and medium-sized businesses and VCSEs when letting contracts.

#### 2.3.5. Environment

Both the National Procurement Policy Statement and the Environmental Policy require consideration of opportunities that maximise resource efficiency, support a reduction in waste, and contribute to the circular economy.

Better Together for Norfolk, the Environmental Policy, and the National Procurement Policy Statement require consideration of supporting opportunities that enhance biodiversity.

The Environmental Policy requires consideration of opportunities that enhance health and wellbeing through exposure to the natural environment.

The Environmental Policy requires consideration of opportunities that promote sustainable land use.

### **Alignment with the Cabinet resolution of 8 November 2021**

- 2.4. On 8 November 2021, Cabinet considered a report *Natural Norfolk: Progress on delivering the Environmental Policy*. This report sets out details of a financial and procurement framework for carbon reduction. Cabinet resolved as follows:

- 
6. Agree the following matters with respect to the financial and procurement framework for carbon reduction.
- a. Acknowledge that sustainability of transport investments is determined via Department for Transport evaluation tools.
  - b. Agree that in respect of non-transport investments there will not be a maximum payback period for carbon reduction projects where the Executive Director of Finance and Commercial Services agrees that the net present value of the project is positive, after allowing a reasonable contingency for risk.
  - c. Commission the Executive Director of Finance and Commercial Services to provide further guidance to Executive Directors on the use of a carbon 'price' in option appraisals for non-transport projects.
  - d. Commission Executive Directors, in consultation with the Director of Procurement, to evaluate contracts within their services as they fall due for replacement or extension, and proposals for new contracts, in order to:
    - i. identify any potential to reduce carbon emissions;
    - ii. consider the optimum balance between price and carbon reduction opportunities which can be achieved; and
    - iii. ensure that any identified cost pressures linked to carbon reduction in respect of their services are provided for within the Council's budget and Medium Term Financial Strategy.
  - e. Commission Executive Directors, in consultation with the Director of Procurement, to evaluate planned capital projects within their services,

and capital contracts as they fall due for replacement or extension, in order to:

- i. identify any potential to reduce whole-life carbon emissions;
  - ii. consider the optimum balance between price and low carbon which can be achieved; and
  - iii. ensure that any identified cost pressures linked to carbon reduction in respect of their capital projects are provided for within capital budgets.
- f. Ask the Executive Director of Finance and Commercial Services to propose changes to the Contract Standing Orders and the Financial Regulations to enact recommendations 6a-6e above.
- 

## **Removal of other considerations from section 18**

- 2.5. In February 2021 Cllr Kemp moved a resolution to Full Council to include the words “This will apply to young people in the care of Norfolk County Council and to Care Leavers” to Paragraph 18 (Social Value), part d(iii).
- 2.6. In order to simplify and focus section 18 it is proposed that considerations that cannot be traced to current strategies or to Cllr Kemp’s resolution be removed.

## **Intrinsic social value**

- 2.7. The July 2020 Cabinet Paper, *Social Value in Procurement*, noted that: “Contracts often intrinsically deliver social value: their whole purpose is to deliver social, environmental or economic benefit. We build a road or provide a bus so that people can access training, education, jobs, health services and leisure; we deliver social care; we collect waste and dispose of it responsibly; we promote public health.”
- 2.8. Where a contract delivers intrinsic social value, it may still be relevant to seek other forms of social value – for example an apprenticeship requirement might still be built into a large environmental contract. But it may be that the intrinsic social value will be sufficient. It would be helpful to make this point explicit in the Contract Standing Orders.

## **Technical changes**

- 2.9. To reflect the UK’s exit from EU, and other legislative changes, a number of technical changes have been made to the Contract Standing Orders. These changes have been implemented in paragraphs 3a(vii) and 4e.
- 2.10. New paragraphs 4h and 15i have been added to confirm the authority of the Director of Procurement in specific circumstances.

## **Accessibility requirements**

- 2.11. In November 2021, Full Council agreed that Norfolk would support the Government’s new ambition to make the UK the global leader in accessibility. To

reflect this, and to reflect the Council's legal duties, when setting the specification, selection criteria and tender evaluation criteria, the relevant officer shall have regard to the Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018/level AA of the Web Content Accessibility Guidelines (WCAG 2.1).

## **Armed Forces Act 2021**

- 2.12. The Armed Forces Act 2021 introduced a requirement for Norfolk County Council to pay due regard to the principles of the Armed Forces Covenant when exercising public functions in the areas of housing, healthcare and education.

## **Accessibility of contracts**

- 2.13. Where contracts are to be published, the Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018 require [with certain exceptions] that they be in an accessible format. A requirement that documents be generated in such a format has been added so that we can comply with this requirement. The change will also make documents more accessible to internal users.

## **Details of changes**

- 2.14. Details of the proposed changes are set out at Annex A. A mapping to the various strategy documents is at Annex B.

## **3. Impact of the Proposal**

- 3.1. The proposal will assist in implementing the National Procurement Policy Statement, which the Council is required to have regard to, and align the Council's procurement practice more closely with its overall strategy.

## **4. Evidence and Reasons for Decision**

- 4.1. The process to review the Contract Standing Orders has been undertaken with input from officers across the organisation. The proposals ensure that the Contract Standing Orders remain current, reflect policy decisions and ministerial directives, and are aligned with the Council's strategies.

## **5. Alternative Options**

- 5.1. Retain the status quo and make no changes or propose alternative changes. This may risk the Contract Standing Orders becoming outdated.

## **6. Financial Implications**

- 6.1. No direct financial implications. Financial implications may arise from the new requirement regarding the Armed Forces Covenant, but this is a statutory requirement which the standing orders simply reflect. In individual cases additional costs may arise from enhanced environmental standards, reflecting changes in government policy and the Cabinet resolution of 8 November 2021.

## **7. Resource Implications**

7.1. **Staff:** None identified.

7.2. **Property:** None identified.

7.3. **IT:** None identified.

## **8. Other Implications**

8.1. **Legal Implications:** The Public Contracts Regulations 2015 and the Concession Contracts Regulations 2016 were amended following the UK's decision to leave the European Union and the end of the subsequent transition period. The amends to the Contract Standing Orders ensure that they comply with the law, as amended, and at the date of this report.

8.2. **Human Rights Implications:** None identified.

8.3. **Equality Impact Assessment (EqIA) (this must be included):**

8.3.1. An equality impact assessment has been conducted of the Contract Standing Orders. Equality was already well-integrated into the Orders, to ensure that the requirements of the Equality Act 2010, procurement disability regulations and other relevant legislation relating to fairness and social cohesion were appropriately discharged.

8.3.2. In undertaking the assessment, particular attention was paid to all protected characteristics of age, disability, race and ethnicity, sexual orientation, sex and gender identity/gender reassignment, religion and belief, and marriage and civil partnerships.

8.3.3. The assessment has identified further opportunities to embed inclusion into procurement regarding the provision of accessible physical, digital, and virtual services, information, and workforce environments, and to ensure that providers comply with the Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018. The revised Orders will also embed the new duty to pay due regard to the principles of the Armed Forces Covenant when exercising public functions in the areas of housing, healthcare and education.

8.3.4. In November 2021, Norfolk County Council's Full Council agreed to contribute to the Government's ambition to make the UK a global leader in accessibility. Further work will be explored over coming months to consider additional opportunities to embed accessibility for disabled people into procurement.

8.4. **Data Protection Impact Assessments (DPIA):** No implications identified

8.5. **Health and Safety implications (where appropriate):** None identified.

8.6. **Sustainability implications (where appropriate):**

- 8.6.1. Proposed changes, outlined in 2.3, to Section 18 (Social Values) will support the implementation of Norfolk County Council's *Environmental Policy* and the sustainability commitments made in *Better Together, for Norfolk*.
- 8.6.2. Proposed changes outlined in 2.4 will support implementation of the proposals set out in *Natural Norfolk: Progress on delivering the Environmental Policy*.

8.7. **Any Other Implications:** None identified.

## 9. Risk Implications / Assessment

- 9.1. No specific risks have been identified. If the Contract Standing Orders are not regularly reviewed there is a risk they may become outdated or non-compliant with statutory or other changes.

## 10. Recommendations

- 10.1. The Select Committee is asked to:
  - 1. Consider the proposed amendments to the Contract Standing Orders and recommend these to Full Council.

## 11. Background Papers

- 11.1. [Better Together, for Norfolk, Norfolk County Council Strategy 2021-25](#)
- 11.2. [Norfolk County Council's Environmental Policy, November 2019](#)
- 11.3. [Natural Norfolk: Progress on delivering the Environmental Policy, Cabinet, 08/11/2021, agenda item 9](#)
- 11.4. [National Procurement Policy Statement, June 2021](#)

### Officer Contact

If you have any questions about matters contained within this paper, please get in touch with:

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## **Annex A**

### **Contract Standing Orders tracked changes**

#### **Appendix 16 – Contract Standing Orders**

##### **Contents**

1. Notice to external parties
2. Context
3. Interpretation
4. Responsibilities
5. Schemes of delegation
6. Applicability and scope
7. Choice of procurement process
8. Specialist Purchases and Corporate Contracts
9. Reserved contracts
10. Exemptions to these ~~standing orders~~ Contract Standing Orders
11. Relevant considerations
12. Contracts and formalities
13. Contract management and variation
14. Grants
15. Conduct of tendering and competitive processes
16. Record keeping
17. Prevention of corruption and declaration of interests



## 18. Social Value

## 1. Notice to External Parties

- a. These Contract Standing Orders shall not create or form a part of any contract or binding undertaking, express or implied, with any party outside the Council.
- b. The Council does not make any binding commitment to external parties about the conduct of procurement exercises, other than to abide by its statutory and common law obligations.
- c. In seeking quotations or inviting tenders, the Council is not making an offer to enter into any contract.

## 2. Context

- a. The Council is a contracting authority for the purposes of public procurement law and is legally bound to comply with certain practices and procedures in the award, management and variation of contracts.
- b. The law requires the Council to treat suppliers and potential suppliers equally and without discrimination and to act in a transparent and proportionate manner. Procurement activity is also subject to subsidy ~~&and~~ competition (formerly state aid) law.
- c. All procurement activity must comply fully with the applicable requirements of the Public Contracts Regulations 2015, the Concession Contracts Regulations 2016 and any other relevant legislation.
- d. Procurement is subject to local government law, including the general duty of best value, and to equalities legislation.
- e. Section 17 of the Local Government Act 1988 precludes the consideration of specified non-commercial matters in the letting and management of contracts.
- e.f. Certain procurement exercises are subject to the Public Contracts (Social Value) Act 2012.
- f.g. Procurement in specific fields – such as tendering for public transport and some procurement undertaken on behalf of the NHS – is subject to specific legislation.
- g.h. Compliance with these ~~standing orders~~ Contract Standing Orders does not of itself ensure compliance with all applicable laws in every circumstance.

## 3. Interpretation

- a. In these ~~standing orders~~ Contract Standing Orders:
  - i. “CCR 2016” means the Concession Contracts Regulations 2016; (as amended);
  - ii. ~~the~~ “CCR ~~award process~~ Award Process” is the process set out in CCR 2016 for the award of concession contracts;
  - iii. ~~“central purchasing body~~ “Central Purchasing Body” has the meaning given to it in PCR 2015;
  - iv. “Contract Segmentation Guidance” means any guidance issued by the Director of Procurement about the segmentation of contracts by risk or significance to the Council, and/or in respect of each segment

- the requirements for provisions to be included in contracts, specifications and/or award criteria; and/or
- standards of contract management that are to be applied.

~~iv-v.~~ “Contracts Finder” has the meaning given to it in PCR 2015;

~~v-vi.~~ ~~a “controlled entity”~~ “Controlled Entity” is an entity which the Director of Governance has determined to meet the conditions set out in regulation 12(1) of PCR2015 and has included in the list of controlled entities as required by paragraph 6-(k) of these ~~standing orders~~ Contract Standing Orders;

~~vi.vii.~~ “Official Journal of the European Union” ~~or “OJEU”~~ means the supplement to that journal in which PCR 2015 states that notices concerning procurement processes ~~are to be placed, or any successor publication designated for which commenced prior to~~ the same purpose ~~after date that~~ the UK ~~leaves left~~ the European Union; ~~and the transition period ceased were to be placed.~~

~~vii.viii.~~ “PCR 2015” means the Public Contracts Regulations 2015 (as amended);

~~viii.ix.~~ ~~the~~ “PCR ~~thresholds~~ Threshold(s)” means the threshold amounts set in regulation 5 of PCR 2015, or in the case of works or service concession contracts, the threshold amounts set in regulation 9 of CCR 2016;

~~ix.x.~~ “PCR ~~tender processes~~ Tender Processes” are the processes stipulated in PCR 2015 for advertising ~~and~~ conducting procurement processes ~~and the modification of contracts~~ where the value of the anticipated contract exceeds the relevant PCR ~~threshold~~ Threshold; and

~~x.xi.~~ ~~a “relevant contract”~~ “Relevant Contract” is a contract for pecuniary interest between the Council and any other contracting party, except for:

- a. contracts relating to the lending of money by the Council and the raising of capital by the Council (but do include the procurement of financial services);
- b. agreements regarding the acquisition, disposal, or transfer of land, leases of pre-existing property, and licenses – the rules governing these are outlined in the Hierarchy of Decision Making on Property Matters Under the Constitution of Norfolk County Council;
- c. the award of grants by the Council;
- d. the purchase of historical documents, works of art or museum specimens;
- e. contracts of employment between the Council and an individual; and
- f. contracts for loans.

#### **4. Responsibilities**

- a. The Director of Procurement has overall responsibility for procurement by the Council and shall consult as necessary with the Director of Governance and the Executive Director Finance ~~& Commercial Services~~ and Commercial Services.
- b. Chief Officers are responsible for compliance with these ~~standing orders~~ Contract Standing Orders within their directorates.
- c. Officers shall comply with guidance issued by the Director of Procurement when undertaking procurement activities.
- d. Any duty or obligation stated in these ~~standing orders~~ Contract Standing Orders to be the duty or obligation of the Director of Procurement or the Director of Governance may be delegated by them to another officer provided that the delegation is in writing.
- e. The Director of Procurement authorises the placement of notices on Contracts Finder.

| Find a Tender and if applicable in the Official Journal of the European Union.

- f. Invitations to tender may only be issued, and tender processes managed, by officers authorised to do so by the Director of Procurement, or by organisations approved by them to act as procurement agents on behalf of the Council.

## **5. Schemes of delegation**

- a. Chief Officers shall put in place schemes of delegation which identify which officers have responsibility (and the level of their financial delegation) for:
- i. agreeing tender processes and procurement plans;
  - ii. approving tender and contract documents;
  - iii. awarding contracts;
  - iv. approving orders and the payment of invoices; and
  - v. managing contracts, including performance monitoring and the agreement of specification and price variations.

## **6. Applicability and scope**

- a. These ~~standing orders~~Contract Standing Orders apply to all officers of the Council. Officers must ensure that any agents, consultants or contractual partners they allow to act as procurement agents on behalf of the Council (e.g. Norse Group companies, when procuring on behalf of the Council) also comply with them.
- b. These ~~standing orders~~Contract Standing Orders do not apply to maintained schools, whose procurement activities are governed by the Council's Local Management of Schools Scheme.
- c. These ~~standing orders~~Contract Standing Orders apply to all ~~relevant contracts~~Relevant Contracts made by, for, or on behalf of the Council, including when the Council is acting jointly or on behalf of other publicbodies.

~~a. Paragraph 14 of these standing orders applies to grants.~~

d. In addition, certain provisions of these Contract Standing Orders apply to grant-making and other contractual agreements.

## **7. Choice of procurement process**

This paragraph 7 is to be read in conjunction with paragraph 8 below.

### **Thresholds**

- a. The nature of the procurement process to be followed is set out in the tables below, subject to paragraphs ~~(d7(e))~~ to 7(k) and depends on the total value of the contract being procured.
- b. In exercising their discretion to approve a higher limit for awarding a contract without a competitive process or without a published competitive process, the Director of Procurement shall have regard to considerations including best value, compliance with subsidy ~~&and~~ competition law and (for so long as the Council is subject to EU procurement law or equivalent legal duties) the likely interest in the contract from suppliers based in EU states.
- c. The Director of Procurement has the discretion to require any contract or class of contracts to be procured via a competitive process.

d The total value of a contract is to be calculated in the manner prescribed by PCR 2015.

Table 1: social and other specific services listed in Schedule 3 to PCR 2015.

Process	Value limit (excluding VAT)	Higher limit if approved by the Director of Procurement	Additional requirements
<b>A</b> Single quote (with evidence of value for money, such as research into typical prices or rates)	Up to £1,000 (or £10,000 if approved by an officer at grade N or above)	Up to £200,000	Contract award notices must be published on Contracts Finder for contracts with a value of £25,000 or more.
<b>B</b> <del>(a)</del> <del>(a)</del> Request for quotation issued to three or more capable bidders other than via a framework agreement or dynamic purchasing system; or  <u>(b) Request for quotation issued to all capable bidders in the relevant lot of a framework agreement or dynamic purchasing system; or</u>  <del>(a)(c)</del> <u>All location of work within a framework agreement or similar arrangement in</u>	Up to £50,000	Up to PCR <del>threshold</del> <u>threshold</u>	

Process	Value limit (excluding VAT)	Higher limit if approved by the Director of Procurement	Additional requirements
			<u>accordance with procedures set out in that arrangement.</u>
<b>C</b> (b)— <u>Openly advertised competitive process below PCR Threshold Request for quotation issued to all capable bidders in the relevant lot of a framework agreement or dynamic purchasing system; or</u>	<u>Up to the relevant PCR threshold.</u>	<u>Not applicable</u>	<u>Any call for competition must be advertised on Contracts Finder in addition to any other publication</u>
<b>D</b> (a) <del>(e)</del> — <u>Allocation of work within PCR Tender Process; or</u>  (b) <u>competition under a dynamic purchasing system or framework agreement or similar arrangement let in accordance with <del>procedures</del> set out PCR 2015; or</u>  (c) <u>award under a single- operator framework agreement; or</u>	<u>Over the relevant PCR Threshold</u>	<u>Not applicable</u>	<u>Decisions to commit the Council to expenditure over £100million must be taken in accordance with Appendix 15 of the Constitution.</u>



Process		Value limit (excluding VAT)	Higher limit if approved by the Director of Procurement	Additional requirements
<p><u>(d) award under a multi- vendor framework agreement without reopening competition subject to regulation 33(8)(a) of PCR 2015; or</u></p> <p><u>(e) purchase of services from or via a Central Purchasing Body in that arrangement accordance with regulation 37 of PCR 2015; or</u></p> <p><u>(a)(f) process complying with Section 7 of PCR 2015 advertised by means of a contract notice or a prior information notice complying with regulation 75.</u></p>				
€	Openly advertised competitive process below PCR threshold	Up to the relevant PCR threshold.		Any call for competition must be advertised on Contracts Finder in addition to any other publication

	Process	Value limit (excluding VAT)	Higher limit if approved by the Director of Procurement	Additional requirements
D	<p><del>(a) — PCR tender process; or</del></p> <p><del>(b) — competition under a dynamic purchasing system or framework let in accordance with PCR 2015; or</del></p> <p><del>(c) — award under a single-operator framework agreement; or</del></p> <p><del>(d) — award under a multi-vendor framework agreement without reopening competition subject to regulation 8(a) of PCR 2015; or</del></p> <p><del>(e) — purchase of services from or via a central purchasing body in accordance with regulation 37 of PCR 2015; or</del></p> <p><del>(f) — process complying with Section 7 of PCR 2015 advertised by means of a contract notice or a prior information notice complying with regulation 75.</del></p>	Over the relevant PCR threshold		<p><del>Appendix 15 of the Constitution sets out circumstances where a decision must be taken by the Full Council. These include any decision that commits the Council to revenue or capital expenditure of over £100m</del></p>

Table 2: other services, works, concession contracts and supplies

Process		Estimated total value (excluding VAT)	Higher limit if approved by the Director of Procurement	Additional requirements
<b>A</b>	Single quote (with evidence of value for money, such as research into typical prices or rates)	Up to £1,000 (or £10,000 if approved by an officer at grade N or above)	Up to £100,000 for supplies and services; £1,250,000 for works	Contract award notices must be published on Contracts Finder for contracts with a value of £25,000 or more.
<b>B</b>	<p>(a) Request for quotation issued to three or more capable bidders other than via a framework agreement or dynamic purchasing system; or</p> <p>(b) Request for quotation issued to all capable bidders in the relevant lot of a framework agreement or dynamic purchasing system</p>	Up to £50,000	Up to PCR <del>threshold</del> <u>Threshold</u>	

Process	Estimated total value (excluding VAT)	Higher limit if approved by the Director of Procurement	Additional requirements
<b>C</b>	Tender process below PCR threshold	Up to the relevant PCR threshold.	Any invitation to tender must be advertised on the government's Contracts Finder website in addition to any other publication
<b><u>D</u></b>	<p><u>(a) PCR Tender Process; or</u></p> <p><u>(b) CCR Award Process in the case of concession contracts; or</u></p> <p><u>(c) competition under a dynamic purchasing system or framework let in accordance with PCR 2015; or</u></p> <p><u>(d) award under a single-operator framework agreement; or</u></p> <p><u>(e) award under a multi-vendor framework agreement without reopening competition</u></p>	<u>Over the relevant PCR Threshold</u>	<u>Decisions to commit the Council to expenditure over £100million must be taken in accordance with Appendix 15 of the Constitution.</u>

Process		Estimated total value (excluding VAT)	Higher limit if approved by the Director of Procurement	Additional requirements
	<u>subject to regulation 33(8)(a) of PCR 2015; or</u> <u>(f) purchase of services from or via a Central Purchasing Body in accordance with regulation 37 of PCR 2015.</u>			

	Process	Estimated total value (excluding VAT)	Higher limit if approved by the Director of Procurement	Additional requirements
D	<del>(a) PCR tender process; or</del> <del>(b) CCR award process in the case of concession contracts; or</del> <del>(c) competition under a dynamic purchasing system or framework let in accordance with PCR 2015; or</del> <del>(d) award under a single-operator framework agreement; or</del> <del>(e) award under a multi-vendor framework agreement without reopening competition subject to regulation 8(a) of PCR 2015; or</del> <del>(f) purchase of services from or via a central purchasing body in accordance with regulation 37 of PCR 2015.</del>	Over the relevant PCR threshold		<del>Appendix 15 of the Constitution sets out circumstances where a decision must be taken by the full Council. These include any decision that commits the Council to revenue or capital expenditure of over £100m.</del>

## Specific categories of expenditure

### Highway works

- a. Where a third-party commissions works that tie into or modify the Council's highway and the Council sets the specification, PCR 2015 may apply. Such works may:
  - i. be undertaken by a highways contractor appointed by the Council under these ~~standing orders~~Contract Standing Orders; or
  - ii. where the relevant Chief Officer permits, and subject to requirements for the placing of contract award notices, and where the value is below the PCR ~~threshold~~Threshold for works, be undertaken by another contractor appointed by the third-party that meets the Council's reasonable requirements including professional and financial standing, insurance cover and technical competence.

### Local bus services

- b. Where an officer wishes to let a contract for the purchase of season tickets on a local bus service registered as such with the local traffic commissioner, and only two bus operators have registered such services on the bus corridor concerned, the requirement at Row B of table 2 to obtain three quotations is to be read as requiring two quotations from the two operators concerned.

### Legal services

- c. The Director of Governance may commission legal services of the types set out in regulation 10-(d) of PCR 2015 without competition.

### Software

- ~~b.~~ Where the Council has purchased perpetual software licences, the Director of Procurement, in consultation with the Director of IMT & Chief Digital Officer, may authorise the purchase of software support and maintenance services without competition from the software licensor, where the provisions of regulation 32(2)
- d. ~~(b)-(iii)~~ PCR 2015 apply or the purchase is otherwise lawful.

## Inter-authority cooperation

- e. The above requirements for competition do not apply if the proposed arrangement is within regulation 12 ~~(7) of PCR 2015~~(7) of PCR 2015. Authorisation to proceed with any arrangement under this paragraph shall be sought from the Director of Governance.

## Controlled ~~entities~~Entities

- f. Where a supplier to the Council is a ~~controlled entity~~Controlled Entity, the above requirements for competition do not apply. However, there will be a need to ensure compliance with ~~both Best Value and Subsidy & Competition Aid~~ best value, subsidy and competition law (and any other relevant matters that may arise from time to time) before doing so.
- g. Only the Director of Governance may decide whether a given entity is a ~~controlled entity~~Controlled Entity. The Director of Governance shall maintain a list of ~~controlled entities~~Controlled Entities and publish it on the Council's intranet.

## **Regulation 32 Public Contracts Regulations**

- h. The Director of Procurement may determine that a contract is to be let by the negotiated procedure without prior advertisement where Regulation 32 PCR2015 so permits.

### **8. Specialist Purchases and Corporate Contracts**

- a. Certain goods, services or works, because of their nature, require specialist skills and/or expertise to be procured effectively, irrespective of their value.
- b. The Director of Procurement may maintain and publish on the Council's intranet a list of these reserved areas of spend and the thresholds at which restrictions apply ("Specialist Purchases"). They may also specify on that list, the posts whose occupants are authorised to buy within those areas and thresholds ("Specialist Buyers").
- c. Only officers who are named Specialist Buyers shall have the authority to enter into contracts for these Specialist Purchases.
- d. The Director of Procurement may maintain and publish on the Council's intranet a list of contracts that are to be used exclusively for particular purposes ("Corporate Contracts"). No officer shall let or use any other contract for these purposes.
- e. Any exception to the provisions of this paragraph 8 must be approved in advance by the Director of Procurement.

### **9. Reserved contracts**

- a. The Council may restrict the right for organisations to participate in the award of a Contractcontract to classes of organisation that meet the conditions of either regulation 20 or regulation 77 of PCR 2015.

### **10. Exemptions to these ~~standing orders~~Contract Standing Orders**

- a. Exemptions may be granted as follows:
  - ~~i. Subject to the law, a Chief Officer may approve an exemption to any part of these standing orders that is necessary because of an emergency creating immediate risk to persons or property or causing serious disruption to Council services (including any emergency or disruption under the Civil Contingencies Act 2004). The Chief Officer must, as soon as possible, notify the Director of Procurement.~~
  - ~~ii. In exceptional circumstances and subject to the law, any requirement to seek more than one tender or quotation may be disapplied, subject to consultation in advance with the Leader of the Council (for exemptions valued over £100,000) and authorisation in advance by the Director of Procurement and Director of Governance.~~
  - ~~iii. Any other exemption to these standing orders may only be made within the relevant law and with the authority of the Cabinet.~~
- i. Subject to the law, a Chief Officer may approve an exemption to any part of these Contract Standing Orders that is necessary because of an emergency creating immediate risk to persons or property or causing serious disruption to Council services (including any emergency or disruption under the Civil Contingencies Act



2004). The Chief Officer must, as soon as possible, notify the Director of Procurement.

- ii. In exceptional circumstances and subject to the law, any requirement to seek more than one tender or quotation may be disapplied, subject to consultation in advance with the Leader of the Council and authorisation in advance by the Director of Procurement and Director of Governance. Officers shall seek guidance from the Director of Procurement or their deputy before consulting the Leader.
- iii. Any other exemption to these Contract Standing Orders may only be made within the relevant law and with the authority of the Cabinet.

- b. The Director of Procurement shall ensure that all exemptions granted for the award of contracts valued in excess of £250,000 are reported to Cabinet within three months of their being granted.

- c. For the avoidance of doubt, any exemption granted in accordance with this paragraph 10 shall be considered in parallel with any decision required to be taken in accordance with the wider Constitution. Any variation to a contract let via an exemption from these Contract Standing Orders shall be subject to paragraph 13(e) below.

## **11. Relevant considerations**

### **Pre-procurement considerations**

- a. An officer proposing to undertake a procurement exercise shall:
- i. appraise the need for the expenditure ~~and~~, its priority in light of budgetary constraints and what legal power or duty is being relied on to undertake it;
  - ii. confirm that there is Member, or delegated, approval for the expenditure;
  - iii. secure the involvement of the procurement team at an early stage;
  - iv. confirm that the proposed procurement complies with paragraph 7 (Specialist Purchases and Corporate Contracts) of these ~~standing orders~~ Contract Standing Orders;
  - v. consider whether it is necessary to consult – whether as a matter of good practice, to comply with Best Value Statutory Guidance or the Public Contracts (Social Value) Act 2012, or to support compliance with the public - sector equality duty under the Equality Act 2010;
  - vi. comply with the requirements of section 18 (Social Value) of these Contract Standing Orders, ~~and~~;
  - vii. comply with the public-sector equality duty;
  - viii. have regard to any Contract Segmentation Guidance;
  - ix. identify any potential to reduce carbon emissions;
  - x. consider the optimum balance between price and carbon reduction opportunities which can be achieved, taking account of any guidance on carbon pricing issued by the Executive Director for Finance and Commercial Services.

### **Specification, selection criteria and tender evaluation criteria**

- b. In setting the specification, selection criteria and tender evaluation criteria, the relevant officer shall have regard to policy, reputational and legal considerations including:
- i. alignment with the ~~council's~~ Council's policies, priorities and objectives;
  - ii. minimisation of whole-life cost – not just initial costs;
  - iii. the requirements of the Public Contracts (Social Value) Act 2012; the Equality Act 2010, public-sector equality duty
  - ~~i. the public-sector equality duty;~~
  - iv. the Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018/level AA of the Web Content Accessibility Guidelines (WCAG 2.1)
  - ~~iv.v.~~ the requirement to include accessibility criteria for disabled persons or design for all users (regulation 42 of PCR 2015);

vi. the Armed Forces Act 2021, which has introduced a requirement for Norfolk County Council to pay due regard to the principles of the Armed Forces Covenant when exercising public functions;

v.vii. tax compliance, including:

- a. checking employment status for tax purposes (IR35);
- b. ensuring that the specification accurately reflects the work undertaken and the nature of the role and the constraints on it; and
- c. deducting tax and national insurance at source if the off-payroll working rules apply;

vi.viii. the criticality of the service and the need for assurances as to bidders' financial stability and/or business continuity arrangements; and

vii.ix. the requirements of section 18 (Social Value) of these Contract Standing Orders.

## 12. Contracts and formalities

### Contracts to be in writing

All contracts must be formally concluded in writing before the supply, service or work begins.

### Purchase orders

- a. A purchase order must be raised prior to any works or services commencing or goods being procured.

### Contracts**Form of contract**

- b. Procured contracts shall be written in plain English and shall adopt either:
  - i. conditions of contract developed by or agreed by the Director of Procurement for specific types of procurement or specific procurement projects; or
  - ii. conditions of contract produced by professional bodies and agreed by the Director of Procurement; or
  - iii. conditions of contract within collaborative contracts let by other public contracting authorities; or
  - iv. the Council's General Conditions of Contract as a bare minimum; or
  - v. exceptionally, conditions of contract requested by suppliers; but only where the use of these conditions has been previously agreed by the Director of Procurement.

### Accessibility of contracts

- c. Digital/electronic contracts are to be compliant with the Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018/level AA of the Web Content Accessibility Guidelines (WCAG 2.1).
- d. This means ensuring that contracts are formatted and saved in an accessible format so that they are accessible for people who use assistive technologies such as screen readers, magnifiers and speech recognition software to read documents.
- e. This requirement does not apply where it would involve a disproportionate burden – for example, where complex drawings are annexed to a contract.

### Minimum content

- e.f. All contracts, regardless of value, shall as a minimum clearly specify:
  - i. a full description of what is to be supplied or done;
  - ii. the quantities to be provided;
  - iii. the provisions for payment (i.e. the price to be paid and when);
  - iv. the time(s) and location(s) for delivery or performance;
  - v. the provisions for the Council to terminate the contract; and

vi. the provisions for indemnity (where required) and insurance.

### **Prompt payment**

~~d.g.~~ Conditions of contract shall require transmission of payment by the Council within thirty days of receipt of a valid, undisputed invoice and shall incorporate the terms required by regulation 113 of PCR 2015 regarding prompt payment of sub-contractors.

### **Notification of sub-contractors**

~~e.h.~~ In accordance with regulation 71(3) of PCR 2015, in the case of works contracts and in respect of services to be provided at a facility under the direct oversight of the Council, the conditions of contract shall require that, no later than when the performance of the contract commences, the main contractor shall notify to the Council the name, contact details and legal representatives of its ~~subcontractors~~sub-contractors, involved in such works or services, in so far as known at the time.

### **Purchasing cards**

~~f.i.~~ The above conditions (12a to 12f) do not apply to low value, one-off retail purchases where a purchasing card is used.

## Transfer of staff

g-j. Where contracts are awarded which involve the transfer of Council staff, or of former Council staff who were previously the subject of an outsourcing of service by the Council, they shall include provisions to ensure that the relevant pension requirements are complied with and that the Council is indemnified. Where the Council is a third-party to any transfer, the contract shall in addition ensure that the Council has access to staff and employee information on request.

## Execution of contract documents

h-k. Contracts may be concluded by signature by an officer or officers approved to do so under the department's scheme of delegation, or under the Common Seal of the Council.

i-l. Where two signatures are required under the scheme of delegation or by Article 11 of the Constitution, at least one must be that of a person not involved in the tendering or negotiation of the contract.

j-m. Unless otherwise agreed by the Director of Governance, a contract must be entered into as a deed where:

- i. the Council may wish to enforce the contract more than six years after its end; or
- ii. there is any doubt as to whether valid consideration is being created under the contract.

k-n. Contract sealing shall be carried out by an officer authorised by the Director of Governance. This can take place after a quotation or tender has been accepted provided that the completion of this requirement is made a condition of acceptance of the quotation or tender by the Council.

## **13. Contract management and variation**

- a. The officer responsible shall ensure that all significant contracts have a suitable written contract management plan in place. Officers shall also manage each contract over its entirety, to a level of detail proportionate to the contract's risk and value. Officers shall have regard to any Contract Segmentation Guidance.
- b. Where a new contract is subject, or an existing contract remains subject, to the ~~former Code of Practice on Workforce Matters in Local Authority Service Contracts, Best Value Authorities Staff Transfers (Pensions) Direction 2007~~ <sup>(OBJ OBJ)</sup>, the responsible officer shall ensure that compliance with that ~~coded~~direction is monitored.
- c. Officers shall consult with the Director of Procurement as soon as reasonably practicable when they become aware that any significant dispute or claim may arise in relation to a contract or procurement exercise.
- d. Officers shall manage contracts to reflect the specification, to ensure tax and national insurance deductions are made at source if that was the result of the off-payroll working assessment, and to re-evaluate off-payroll status if the terms and conditions or working practices change.

e. Chief Officers may agree variations to contracts provided that these are lawful

under PCR 2015 and there is adequate approved budget provision. Before agreeing any variation, Chief Officers shall satisfy themselves that a contract

- e. \_variation offers comparable or better value for money than going out to competition or that a contract variation is the only possible approach by virtue of exclusive rights or for reasons of urgency. Any variation or variations to a fixed term contract which in aggregate result in additional costs exceeding 5% of the original contract value or £50,000 (whichever is the greater) shall be subject to the prior approval of the Director of Procurement, who will arrange for the publication of a notice where regulation 72 PCR 2015 so requires.
- f. Where a Chief Officer becomes aware that any major contract will exceed by a significant margin the approved budget or time for completion, or is incurring significant risks not initially identified, this shall be reported at the earliest opportunity to the relevant Cabinet Member; if the additional costs cannot be accommodated within the service's budget this shall be reported to Cabinet as required by the Financial Control Standards.
- g. Officers who propose to extend a contract (or to forbear from exercising a break option that arises at a particular date) shall:
  - identify any potential to reduce carbon emissions; and
  - consider the optimum balance between price and carbon reduction opportunities which can be achieved, taking account of any guidance on carbon pricing issued by the Executive Director for Finance and Commercial Services.

#### **14. Grants**

- a. A grant may be made where the Council is not performing a statutory duty, but the provision can be demonstrated to assist with its wider aims and objectives. A grant need not be made via a competitive process.
- b. Officers must satisfy themselves, taking advice as necessary, that any proposed transaction is a grant rather than a contract for services before treating it as such.
- c. Where the Council is using grant monies itself or passing grant monies to a third- party, the application of that money shall be subject to the requirements of the relevant grant funding body. The fact that a transaction is funded by a grant made to the Council does not automatically mean that that transaction is also a grant.
- d. When making a grant, the relevant officer shall:
  - i. treat all potential grant applicants fairly;
  - ii. act in a fair, transparent and consistent manner in relation to the making of the grant;
  - iii. set out the terms of the grant, in writing; and
  - iv. ensure that best value is met and that there is no subsidy & competition law infringement.

#### **15. Conduct of Tendering and Competitive Processes**

##### **Choice of process**

- a. The appropriate competitive process must be chosen according to the requirement and



the value of the contract over its full lifetime, including any possible contract extensions, as set out in paragraph 7.

**Collaborative procurement**

- b. In order to secure best value, officers may make use of collaborative procurement arrangements, with the approval of the Director of Procurement. Such arrangements may include, for example, collaborative contracts let by:
  - i. other local authorities; or

- ii. ESPO, other public sector purchasing consortia, or other UK contracting authorities (e.g. central government departments or agencies); or

~~i. controlled entities.~~

~~iii. (subject to compliance with PCR2015) Controlled Entities.~~

### **Information to be provided to tenderers**

- c. When inviting tenders or quotations, officers must set out clearly:
  - i. the terms on which the tender or procurement process is being conducted;
  - ii. the deadline for response (which must be reasonable);
  - iii. the applicable conditions of contract;
  - iv. the specification; and
  - v. how the tender or quotation will be evaluated.

### **Technical specifications**

- d. Technical specifications shall where appropriate be formulated in accordance with regulation 42 of PCR 2015.

### **Receipt and evaluation of tenders**

- e. Officers shall use an electronic tendering and/or electronic auction system approved by the Director of Procurement to manage the tendering exercise, including the receipt of tenders.
- f. Subject to the law the Director of Procurement has discretion to deal with non-compliant tenders, including whether to accept tenders after the submission deadline has passed (where exceptional circumstances prevail) and whether to seek clarification of a response.

### **Standstill period**

- g. Officers shall observe a standstill period between provisional award and award where the law requires.
- h. For those procurements above the PCR ~~threshold~~Threshold where observance of a standstill period is voluntary, a standstill period shall nevertheless be observed unless the Director of Procurement decides otherwise.

### **Variation or termination of award process**

- ~~i. The Director of Procurement may direct that an award process is to be amended, or terminated without an award being made, where the law permits.~~

### **The European Single Procurement Document (ESPD)**

- ~~i.j.~~ The Council ~~and/or~~ its agents may receive a completed ESPD in place of published pre-qualifying questions or tender response which shall be accepted provided that it demonstrates that it is compliant, it demonstrates that the bidder meets the relevant requirements, it is submitted by the published deadline and through the required e-communications tool.

j-k. The Director of Procurement must be consulted prior to the rejection of any ESPD where the information contained in the ESPD or lack thereof is the reason for the rejection.

## **16. Record Keeping**

- a. Officers shall ensure that records of procurement activity are created and retained:
  - i. in all cases, sufficient to justify decisions taken in all stages of the procurement procedure and the subsequent creation and management of the contract;
  - ii. in accordance with the Council's retention policies; and
  - iii. for procurement exercises covered by Part 2 of PCR 2015, in accordance with regulations 22, 83 and 84 of PCR 2015.

## **17. Prevention of Corruption and Declaration of Interests**

- a. Officers shall comply with the Council's Code of Conduct for Employees. In particular:
  - i. no officer shall use or appear to use their position to obtain any personal or private benefit (including benefit accruing to connected third parties) from any contract entered into by the Council;
  - ii. officers' attention is drawn to the provisions of the Code of Conduct relating to the separation of roles during tendering;
- b. With regards to any contract that has been proposed or entered into by the Council, officers must disclose in writing to their Chief Officer any instances:
  - i. where they have any relationship with a supplier; or
  - ii. where they have any personal interest (financial or non-financial) which could reasonably be considered to conflict with the Council's interests or to favour or appear to favour one supplier over another.
- c. The Council's whistleblowing procedure applies to the letting, management and performance of contracts.

## **18. Social Value**

### **Formal consideration of social value**

- a. The law requires the Council to consider social value in services contracts over the OJEU/PCR threshold, but officers shall consider social value in above-threshold contracts for works as well as services. Officers shall set out their assessment of social value issues in Cabinet papers or papers to other decision makers.

b. In considering social value officers shall have regard to the National Procurement Policy Statement.

b-c. Social value can:

- be built into the contractual terms;
- form part of the specification; and
- form part of tender evaluation.

### **Contract packaging and market engagement**

c-d. Prior information notices

Unless impracticable because of urgency, prior information notices shall be placed in respect of all procurement exercises. The notices should:

- provide information about the proposed procurement so that:
  - bidders have time to prepare;
  - smaller organisations can form consortia if they choose; and
  - potential sub-contractors can make themselves known to prime contractors;
- provide the opportunity for potential providers to engage in the development of the procurement process, the specification and the evaluation criteria, including the social value aspects;
- provide the opportunity for potential providers to comment on the proposed lotting strategy.

#### e. Technological innovation

Specifications should not unnecessarily preclude technological innovation, including the use of disruptive technologies and business models at prime contractor level or in the supply chain.

#### **Division into lots**

d.f. In accordance with ~~the Public Contracts Regulations~~ PCR 2015, for each contractual opportunity, the potential to break the requirement down into lots shall be considered. The rationale for the lotting strategy shall be documented and included in the procurement documents.<sup>1</sup>

#### **Co-production**

e.g. For services which have a significant effect on people – education, health, care, transport and housing services and services affecting the public realm – appropriate consultation shall be undertaken with those affected and, for people services, commissioners shall work closely with users or their representatives.<sup>2</sup>

#### **Requirements to be built into contracts**

f.h. Appropriate social value requirements shall be built into contract terms or specifications. Where appropriate, bidders' ability to meet these requirements shall be tested through the procurement process; compliance with these requirements shall be monitored, to a proportionate degree, through the contract management process.

#### g.i. General

Contracts shall include requirements for the following:

- payment within thirty days, with this requirement being passed down the supply chain;<sup>3</sup>
- compliance with the Equality Act 2010;
- compliance with the Bribery Act 2010;

<sup>1</sup> Public Contracts Regulations 2015, s 46(1).

<sup>2</sup> Public Contracts Regulations 2015, s 40(1,2).

<sup>3</sup> This requirement applies to all contracts under the PCR 2015

- compliance with living wage legislation and with requirements to check entitlement to work;
- appropriate measures to deter crime and disorder:<sup>4</sup>

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~~<sup>4</sup> This requirement applies to all contracts under the Public Contracts Regulations 2015~~

<sup>4</sup> Crime and Disorder Act 1998, S 17.

- measures to prevent fraud, where Council or client money is being handled;
- measures to prevent theft of cash or goods;
- requirements for 'security by design' where buildings or infrastructure are being built or modified;
- appropriate health, safety and environmental requirements; and
- appropriate requirements for workforce development.

#### ~~i.~~ Blacklisting

#### j. Employment - Prohibited Lists

Construction contracts shall include a requirement to abide by the Employment Relations Act 1999 (Blacklists) Regulations 2010.

#### ~~h.k.~~ Cyber-Security

Contracts for software as a service and hosted IT systems and contracts that involve processing personal data or data that is essential for business continuity shall include:

- appropriate cyber security and resilience requirements, typically *cyber essentials* or *cyber essentials plus* as defined by the National Cyber Security Centre.<sup>5</sup>
- appropriate business continuity and disaster recovery requirements.<sup>6</sup>

#### ~~i.l.~~ Modern slavery

Contracts in sectors where there is an elevated risk of modern slavery, such as waste and construction, shall include requirements for contractors to mitigate the risks. All contracts over £10m per annum shall include requirements for contractors to segment their supply chains by modern slavery risk and to proactively manage modern slavery risk in segments where there is an elevated risk.

#### ~~j.m.~~ Diverse supply chains

Contracts valued over £10m and contracts likely to involve material sub- contracting shall generally include provisions requiring the promotion of diverse and local supply chains, including:

- promotion of sub-contract and supply opportunities to the Norfolk business community, including opportunities for small start-ups, small and medium-sized businesses and VCSEs; and
- promotion of sub-contract and supply opportunities to ~~women-owned businesses, BAME-owned businesses and~~ businesses owned by people with ~~other~~ protected characteristics under the Equality Act.

#### ~~k.n.~~ Workforce health

For contracts valued over £10m, consideration shall be given to including requirements to promote good mental and physical health in the workforce.

<sup>5</sup> National Cyber Strategy 2022, objective 2.

<sup>6</sup> Civil Contingencies Act 2004, S 2(1) (c)

## Social value opportunities to be considered for evaluation

~~l.o.~~ Opportunities to promote social value through the evaluation process – in other words, to give extra marks for additional value - shall be considered for each significant procurement exercise.

~~m.p.~~ In considering these opportunities, the cost shall be borne in mind. By granting marks for social value in a procurement process, the buyer is saying that it is willing to pay extra for those social value features. Officers shall consider whether this is the most cost-effective way of obtaining the desired social benefit.

~~ii. — Skills development — apprenticeships, training and work experience~~

~~q. A contract may deliver intrinsic social value and this may be sufficient. Officers shall consider whether it may still be relevant to seek other forms of social value in addition.~~

~~r. Creation of new business, jobs, and skills~~

- ~~• Opportunities to support entrepreneurship and help local, new and small businesses to grow (including green, high-value businesses), for example through sub-contracting and supply chain opportunities, shall be considered.~~
- The opportunity to recruit local people and to support skills development by creating quality apprenticeship, training and work experience opportunities through major contracts is significant and should always be considered, ~~particularly in light of its potential impact on social mobility.~~ This ~~will apply~~ to extends in particular to training opportunities in green and high growth sectors; and to training for young people in the care of Norfolk County Council and ~~to for~~ Care Leavers.

~~n.s.~~ Support for disadvantaged groups

Opportunities to promote employment, provide support sessions, trade taster sessions and similar opportunities for disadvantaged groups ~~(including BAME people) and to promote employment of disadvantaged groups~~ should always be considered.

~~iii. — Support for the local area~~

~~Opportunities exist for suppliers to build social value by seeking actively to recruit local people and local subcontractors.~~

~~e.t.~~ Community and client capacity

The opportunity to make communities more cohesive, sustainable and resilient should always be considered. Approaches to service delivery that will have a long-lasting impact – for example ~~by~~ strengthening the local voluntary sector by supporting volunteer recruitment and training opportunities, or enabling clients to be less dependent on support – should be favoured over approaches that are less sustainable.

~~p.u.~~ Volunteering and mentoring

The contribution of volunteering and mentoring time in the local community could form useful added value, but care should be taken that the approach does not simply allow



large providers to rebadge volunteering that their staff already undertake and charge extra for it.

q.v. Environmental

Where there may be opportunities for significantly better environmental performance, it may be appropriate to include environmental

performance as an 'added value' criterion, rather than simply setting a minimum standard.

Environmental standards above the statutory minima may be particularly relevant where they:

- materially reduce greenhouse gas emissions;
- support the ~~council's~~Council's public health objectives, for example by improving local air quality;
- maximise resource efficiency, support a reduction in waste, and contribute to the circular economy;
- enhance biodiversity;
- enhance health and well-being through exposure to the natural environment;
- promote sustainable land use;
- contribute towards the environmental and landscape objectives of the Norfolk Spatial Strategy.

## **Annex B**

### **Mapping of strategy documents**

#### Better together, for Norfolk

The following considerations are already fully covered by the existing CSOs:

- We will work hard with employers to increase the number of supported internships, traineeships and apprenticeships for all young people, and to promote and deliver an increased uptake of apprenticeships.
- Improve social mobility through inclusive growth.
- Build confidence and trust with people and communities, promoting equality, diversity and inclusion, so we will enable them to express the issues that matter to them and to take advantage of their strengths and assets.
- We will actively promote volunteering opportunities within communities as a way of enabling participation, giving back to communities and developing skills in life and work.
- We will seek to devolve powers down to a local level where possible, enabling communities to use their assets to meet their needs.
- We will pay particular attention to the factors that promote health and wellbeing. Getting these factors right, will create the conditions to improve people's quality of life, breaking down intergenerational cycles of poor outcomes, reducing the impact of life changing events and ultimately safeguarding good physical and mental health.
- Work with our partners to achieve 'Net Zero' carbon emissions across our estates by 2030.

The following considerations are not fully covered by the existing CSOs, and are covered in the revised CSOs at the following paragraphs:

#### **18 r) Creation of new businesses, jobs, and skills**

- Move from being a low-skill, low-wage and low-productivity economy, to high-skill, high-wage, high-value businesses, which are innovative and can capitalise on our strong digital connectivity.
- We will work closely with our partners and the business community to ensure that growth is inclusive and builds investment and social value into the local economy.
- Work with our partners to increase qualifications and build the skills that meet the needs of the green, high-value and transformational businesses we are aiming to develop and attract.

#### **18 t) Community and client capacity**

- We will continue to develop the way we work with the voluntary and community sector, collaborating to improve infrastructure support such as providing training, volunteer recruitment and everyday practical advice.

## **18 e) Technological innovation**

- Develop Norfolk as a centre for innovation in life sciences and supporting new technologies and development of sites supporting new technologies with a strong inward investment proposition that promotes our county as a place to invest.

## **18 v) Environmental**

- We will continue to implement our Environmental Policy, to protect our county's rich biodiversity, conserve areas of natural beauty and promote the efficient use of our natural resources.

### The Council's Environmental Policy

The following considerations are already fully covered by the existing CSOs:

- Working with our supply chain wherever possible to reduce the environmental footprint created by reducing pollution and supporting initiatives that lead to clean air.

The following considerations are not covered in the existing CSOs, and are covered in the revised CSOs at the following paragraphs:

## **18 v) Environmental**

- Maximising resource efficiency and minimising environmental impacts at end of life:
  - Achieving zero avoidable plastic waste in operation
  - Reducing the impact of waste generally in our operations through working with the supply chain regarding single use products
  - Explore opportunities for improving the management of residual waste
  - Working with partners to maximise the opportunities for recycling waste.
- Recovering nature and enhancing the beauty of landscapes:
  - Protecting and recovering nature.
- Connecting people with the environment to improve health and wellbeing.
- Creating and embedding in our strategic planning a more holistic approach to address climate change, particularly within the local planning frameworks.

### National Procurement Policy Statement

The following considerations are already fully covered by the existing CSOs:

- Public procurement should be leveraged to support priority national and local outcomes for the public benefit.
- Increasing employment opportunities particularly for those who face high barriers to employment or who are located in disadvantaged areas.

- Contributing to the UK Government's legally-binding target to reduce greenhouse gas emissions to net zero by 2050.

The following considerations are not covered in the existing CSOs, and are covered in the revised CSOs at the following paragraphs:

**18 r) Creation of new businesses, jobs, and skills**

- Increasing opportunities for entrepreneurship and helping new and/or small businesses to grow, supporting higher economic growth and greater business creation.
- Extending training opportunities, particularly for people in industries with known skills shortages or in high growth sectors.

**18 e) Technological innovation**

- Increasing innovation and the use of disruptive technologies and business models throughout the supply chain, to deliver lower cost and/or higher quality goods and services, and encourage the wider adoption of innovation.
- Contributing to the development of scalable and future-proofed new methods to modernise delivery and increase productivity.

**18 m) Diverse supply chains**

- Creating a more diverse supply chain to deliver the contract, which will better support start-ups, small and medium-sized businesses and VCSEs in doing business on public sector contracts.

**18 v) Environmental**

- Reducing waste, improving resource efficiency and contributing to the move towards a circular economy.
- Identifying and prioritising opportunities in sustainable procurement to deliver additional environmental benefits, for example enhanced biodiversity, through the delivery of the contract.

# **Corporate Select Committee**

**Item No:11**

**Report Title: Constitution Update**

**Date of Meeting: 14 March 2022**

**Responsible Cabinet Member:**

**Cllr Andrew Proctor** (Leader of the Council and Cabinet Member for Governance and Strategy)

**Responsible Director:**

**Helen Edwards, Director of Governance**

## **Executive Summary**

It is the responsibility of the Corporate Select Committee to consider any changes proposed to the Constitution before they are presented to Full Council for consideration.

The Director of Governance is proposing changes to the current Constitution. It is proposed that a report is taken to the Annual General Meeting on 10<sup>th</sup> May 2022 for Council to consider the changes. At this stage the changes are limited to a change to the order and layout of the Constitution, merging information in the Articles and Appendices into “Parts” and re-ordering the Parts so that similar issues are grouped together. This is intended to make the Constitution more user friendly. These changes have not been track changed as it makes the document too unwieldy. The version of the Constitution appended to this report contains no substantive changes to the content.

A separate report is being presented to Corporate Select Committee at its meeting on 14 March to amend the Contract Standing Orders, and if approved the proposed changes will be incorporated into the revised format of the Constitution.

It is proposed that further changes to the content of the Constitution will be made at a later draft, drafting is ongoing and any further changes will be brought before the Corporate Select Committee at a later date, before being recommended to Full Council for adoption.

## **Recommendations / Action Required**

The Select Committee is asked to:

1. Consider the proposed amendments to the Constitution and recommend these to Full Council (noting that the current Contract Standing Orders shown in Part 11D will

be replaced by the amended version in a separate report before the Committee, if approved)

## **1. Background and Purpose**

- 1.1.1. This paper proposes updates to the Constitution, namely a revised format bringing together the content of the Articles and Appendices into more accessible “Parts”, aimed to make it easier to find relevant sections and reduce duplication and contradictions in separate sections
- 1.1.2. Proposed substantive changes to the content designed to improve the efficiency of the running of the Council and its business are currently being drafted and will be shared widely with group leaders before being brought to a later meeting of the Corporate Select Committee. No such changes are proposed in this report.

## **2. Proposal**

- 2.1. The committee is asked to endorse the proposed amendments to the Constitution. (It should be noted that once changes are approved by Council, the document will be reformatted to meet the Council's accessibility guidelines before it is uploaded to the website).

## **3. Impact of the Proposal**

- 3.1. The proposed changes will make the Constitution easier to navigate, avoid confusion by information being contained in separate sections, and will aid the efficient running of Council business.

## **4. Evidence and Reasons for Decision**

- 4.1. The process to review the Constitution has been undertaken with input from officers across the organisation, and the draft has been shared with Group Leaders.
- 4.2. It is a key role of the Director of Governance to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for the way in which it could be amended in order to better reflect the purposes set out in Part 1, which states the purpose of the Constitution.

## **5. Alternative Options**

- 5.1. Retain the status quo and make no changes or propose alternative changes. This would mean the Constitution is not as effective as it should be in assisting the business of the Council.

## **6. Financial Implications**

- 6.1. None

## **7. Resource Implications**

- 7.1. **Staff:** None

7.2. **Property:** None

7.3. **IT:** None

## **8. Other Implications**

8.1. **Legal Implications:** The Council is required to keep its Constitution under review to ensure that it is fit for purpose.

8.2. **Human Rights Implications:** None

8.3. **Equality Impact Assessment (EqIA) (this must be included):**

8.3.1. Not required. The Constitution will be formatted to ensure it meets the Council's accessibility guidelines before being uploaded to the website. In areas where this makes the content difficult to read quickly, for examples, if tables need to be removed, the information will be presented both in tables and in a format that is accessible to users of assistive technology.

8.4. **Data Protection Impact Assessments (DPIA):** No implications identified

8.5. **Health and Safety implications (where appropriate):** None

8.6. **Sustainability implications (where appropriate):**

8.6.1. None.

8.7. **Any Other Implications:** None identified.

## **9. Risk Implications / Assessment**

9.1. No specific risks have been identified. If the Constitution is not regularly reviewed there is a risk that it may become outdated or non-compliant with statutory or other changes.

## **10. Recommendations**

10.1. The Select Committee is asked to:

1. Consider the proposed amendments to the Constitution and recommend these to Full Council (noting that the current Contract Standing Orders shown in Part 11D will be replaced by the amended version in a separate report before the Committee, if approved)



## **11. Background Papers**

None

### **Officer Contact**

If you have any questions about matters contained within this paper, please get in touch with:

**Officer name: Helen Edwards**

**Telephone no.: 01603 493627**

# Constitution

**Approved by Full Council 10 May 2022**

**Revised: (dates)**

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## **County Council Constitution – Executive Summary**

### **1. Introduction**

This Constitution reflects the Council's decision on 10 December 2018 to adopt a Leader and Cabinet form of Executive. It came into effect on 07 May 2019 and has been updated since by decisions of Council and under delegations to the Director of Governance. This version of the Constitution with its revised format was approved by Full Council at its Annual General Meeting on 10 May 2022.

This Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

### **2. Overview**

#### **How the Council operates**

The Council is composed of 84 Councillors elected every four years. Councillors are democratically accountable to residents of their electoral division. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee advises them on the code of conduct.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year.

#### **How Decisions are Made**

The Executive is part of the Council which is responsible for most day-to-day decisions. The Executive is made up of a Leader and up to nine other Councillors whom the Leader appoints. Together they are known as the Cabinet. When major decisions are to be discussed or made, these are published in the Cabinet's forward plan in so far as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Cabinet, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall budget and the policy framework. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

## **Overview and Scrutiny**

There is a Scrutiny Committee and three Select Committees which together constitute the Council's overview and scrutiny arrangements pursuant to section 21 of the Local Government Act 2000.

The Scrutiny Committee monitors the decisions made by the Cabinet, officers making executive decisions on delegated authority and other decisions. The Scrutiny Committee can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the decision maker reconsiders the decision.

The Select Committees develop policies and advise the Council or Cabinet on forthcoming decisions. The Select Committees discharge this function through requiring reports to be produced for their consideration, commissioning further work as necessary and reporting to Cabinet and Council. The Select Committees may carry out elements of "scrutiny" in so far as it relates to developing policy, by considering what has worked well, or less well, in the past.

The Norfolk Health Overview and Scrutiny Committee includes both County and District Councillors and has powers to scrutinise National Health Service bodies in Norfolk. The role and powers exercised by the Norfolk Health and Overview Scrutiny Committee are detailed in Part 7

## **The Council's Staff**

The Council employs officers to give advice, implement decisions and manage the day-to-day delivery of its services including making decisions delegated to them. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationship between officers and Members of the Council.

## **The Public's Rights**

The public have a number of rights in their dealing with the Council. These are set out in more detail in Part 2. Some of these are legal rights, whilst others depend on the Council's own processes.

Members of the public have the right to:

- vote at local elections if they are registered
- contact their local Councillor about any matters of concern to them
- obtain a copy of the Constitution
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed
- petition to request a referendum on different form of Executive
- ask questions

- speak at meetings of the Planning (Regulatory) Committee
- find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when
- attend meetings of the Cabinet where key decisions are being discussed or decided
- see reports and background papers, and any record of decisions made by the Council and Cabinet
- complain to the Council about any dissatisfaction they have with an action or lack of action by the Council
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process
- complain if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

Where members of the public use specific Council services, for example as a parent of a school pupil or as a Council tenant, they have additional rights conferred on them by law.

## **Part 1 – The Constitution**

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

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

### **1.2 The Constitution**

This Constitution is the Constitution of the Norfolk County Council.

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

The Purpose of the Constitution is to:

- i. enable decisions to be taken efficiently and effectively
- ii. create a powerful and effective means of holding decision makers to public account
- iii. ensure that no one will review or scrutinise a decision in which they were directly involved
- iv. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions
- v. support the active involvement of the public in the process of local authority decision-making
- vi. provide a means of improving the delivery of services across Norfolk
- vii. help Councillors represent their constituents effectively
- viii. enable the Council to provide clear leadership to the community in partnership with the people of Norfolk, District, Town and Parish Councils, businesses and other organisations; and
- ix. to set out the respective responsibilities of members and officers of the Council and how they inter-relate.

### **1.4 Application of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will aim to choose that option which it thinks is closest to the purposes stated above.

### **1.5 Duty to Monitor and Review the Constitution**



- i. The Council from time to time will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- ii. A key role for the Director of Governance is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for the way in which it could be amended in order to better reflect the purposes set out in Part 1. In undertaking this task, the Director of Governance may:
  - Observe meetings of different parts of the Member and officer structure
  - Undertake an audit trail of a sample of decisions
  - Record and analyse issues raised by Members, officers, the public and other relevant stakeholders; and
  - Compare practices in this Council with those in other comparable authorities, or national examples of best practice.

## **1.6 Changes to the Constitution**

- i. Substantive changes to the Constitution must be approved by full Council only after consideration by the Corporate Select Committee.
- ii. Changes to factual references, changes required by a change in the law and consequential changes will be made by the Director of Governance.
- iii. Changes to reflect revised arrangements for the distribution of responsibilities and the delegation of powers to officers in accordance with decisions taken by the person(s) or body with authority to take such action, will be made by the Director of Governance.

## **1.7 Suspension of the Constitution**

Rules of the Council set out in this Constitution may only be suspended:

- i. in accordance with any procedures set out in those rules; or
- ii. by resolution of the Council to the extent permitted by the law.

## **1.8 Publication**

The Director of Governance will:

- 1) Ensure that the Constitution is brought to the attention of each Member upon delivery to them of that individual's declaration of acceptance of office on first being elected to the Council.
- 2) Ensure that copies of the Constitution are available for inspection at County Hall

and can be purchased by members of the Media and the public on payment of a reasonable fee, as determined by the Director of Governance, although requestors will be encouraged as an alternative to access the online version, to ensure they will always be looking at the most recent version.

- 3) Ensure that the Executive Summary of the Constitution is made widely available and is updated as necessary.
- 4) Ensure that the Constitution is kept up to date and available on the Council's website.

## **Part 2 – The Public and the Council**

### **2.1 Public Rights**

Members of the public have the following rights:

- i. Voting and petitions. People on the electoral roll for Norfolk have the right to vote and sign a petition to request a referendum on a different form of governance.
- ii. Information. Representatives of the media and Members of the public have the right to:
  - a) attend meetings of the Council, the Cabinet and Council committees, except where confidential or exempt information is likely to be disclosed and the meeting is held in private;
  - b) find out what key decisions will be taken by the Leader and Cabinet and when;
  - c) see agendas for meetings, reports by officers, background papers and records of decisions;
  - d) inspect the Council's accounts and make representations to the external auditor.

Public rights to information are explained in more detail in the Access to Information Procedure Rules, set out in Part 11A.

- iii. Participation. The rights of the public to ask questions and speak at meetings are explained in more detail in the Cabinet and Committee Procedure Rules in Parts 6B and 8B and the procedures for Public Speaking at Part 2A
- iv. Complaints. Members of the public have the right to complain to:
  - a) the Council under its complaints scheme
  - b) the Local Government Ombudsman after using the Council's own complaints scheme
  - c) the Monitoring Officer about a breach of the Members' Code of Conduct.

### **2.2 Responsibilities of the Public**

Members of the public must not be violent, abusive or threatening to Councillors or officers and must not willfully harm property owned by the Council, Councillors or officers. Anyone causing a disturbance in a meeting will be removed from that meeting. They should also comply with the law and the Council's procedures, in dealing with the Council.

## **Part 2A: Public Speaking at Committees**

### **(A) Planning (Regulatory) Committee**

1. At meetings of the County Council's Planning (Regulatory) Committee, the public are able to speak before decisions are made on planning applications.

Anybody who wishes to object to or support a planning application which will be decided by the Committee may speak before decisions are made on planning applications.

Any person wishing to speak must give written notice to Democratic Services at least 48 hours before the Committee meets together with a short note of the points to be raised.

At the start of the meeting the Chair will ask members of the public to indicate if they wish to speak and if so, on what items and whether they are in support of or opposition to the application. Consideration can be given to changing the order of the agenda items if this is helpful in cases of exceptional public interest.

On each report where the public or local Members wish to speak, the order will be:

1. Officer presentation of the report.
2. Objectors/supporters to the Application.
3. Statutory Consultees, District and Parish/Town Councils.
4. The Applicant or agent.
5. The local Member.

Each group will be allocated five minutes each and should, if possible, nominate one person to speak on their behalf. If this is not possible or there are members of each group both objecting and in support of the application the time allocated will be at the discretion of the Chair. The Chair may in complex cases extend the time allocated for speaking.

2. Members of the Committee may seek clarification after each speaker through the Chair and can seek guidance from officers. This is NOT a debating session.
3. Speakers will not be allowed to question other speakers, officers or Members.
4. Officers will be given an opportunity to comment on any points raised, if necessary.
5. Public speaking then ends, and Members proceed to debate the recommendation.
6. Members resolve on the recommendation.

**(B) Norfolk Health Overview and Scrutiny Committee**

Members of the public or interested parties who wish to speak to the Committee will be required to give two clear working days' notice and, at the discretion of the Chair, will be given a maximum of five minutes at the microphone. Speaking will be for the purpose of providing the committee with additional information or a different perspective on an item on the agenda, not for the purposes of seeking information from NHS or other organisations that should more properly be pursued through other channels. Relevant NHS or other organisations represented at the meeting will be given an opportunity to respond but will be under no obligation to do so.

**(C) Health and Wellbeing Board**

7. Appendix 2 of the Constitution sets out the rules and procedure for asking questions at this Committee.

## Part 2B: Principles and Protocols for dealing with the media

### 1. Introduction

Norfolk County Council is committed to effective communications so that residents are well informed about its services. The communications team works to promote and protect the Council's reputation, providing accurate and balanced media coverage of its work and activities.

The team operates within the terms and spirit of a legal framework which states that: -

*"A local authority shall not publish any material which in whole, or in part, appears to be designed to affect public support for a political party".*

This covers *"any communication, in whatever form, addressed to the public at large or to a section of the public"*.

Publicity issued by local authorities must be lawful, cost effective, objective, even-handed, appropriate, have regard to equality and diversity and be issued with care during periods of heightened sensitivity e.g. during a pre-election period.

### 2. Principles

Underpinning the work of the communications team are several fundamental principles.

**Members actively involved.** The content of all principal news releases should be shared and developed in draft stages with the lead Member for the relevant service (usually the Cabinet Member). All Members whose contact details are included in press releases should be alerted to releases before they are sent to the media so that they have time to digest the issue prior to any media enquiry. This alert will come by email. They should not hear first from the media. This applies to:

**Staff informed.** Media releases will be agreed with the principal officers and distributed to them prior to release. They will also be posted on the Council website on the day of publication.

**Honest.** The media team never knowingly misleads the media on a story or issue. Staff are in a long-term relationship with the local media and trust in our approach is critical.

**Accessible and timely.** Staff are polite but firm in dealings with the media, always ensuring contact numbers are accurate and returning calls efficiently to recognise competing pressures on deadlines. The timeliness of the response rate to media enquiries is recorded and a media officer is available to the media on a 24-hour basis, seven days a week.

**Fair.** The media team does not routinely favour one media source over another. Where appropriate, staff will identify the relative importance of media sources and be able to clearly

justify any strategy that promotes one over another.

### **3. Protocol**

#### **a) Clearance of media releases, statements and interviews:**

Media activity on behalf of the Council – statements, press releases and interviews – should be cleared by the following: i) the communications team; ii) relevant Cabinet Member or, where applicable, in their absence, Deputy Cabinet Member; and iii) relevant Senior Officers.

This is to ensure “no surprises”, factual accuracy and consistency of Council messaging. (The only exceptions are the Museums and Libraries Services where releases that do not relate to policy or controversial matters may be released by the Services if they are simultaneously sent to the communications team). The Communications Team will use its best endeavours to supply press releases as early as possible to opposition spokespersons.

#### **b) Interviews by politicians:**

The communications team is available to broker interviews with and offer advice to Cabinet Members and the Leader (unless pre-election purdah restrictions are in place). This enables the team to brief interviewees, to improve their chances of success and to ensure that we can log the resultant coverage.

To assist this process, we would encourage politicians to let us know if they are approached by the media. However, the team recognises that politicians are free to make their own arrangements with the media, especially on party political matters.

If a senior politician is not available to be quoted or do an interview, a Senior Officer can take their place with consent from the Leader/Deputy Leader.

#### **c) Interviews by Officers:**

No officer should speak to the media about Council issues without the prior approval of the communications team. This is to ensure “no surprises”, factual accuracy and consistency of Council messaging. It also ensures that the officer can be briefed by the communications team, which reduces the risk of an unsuccessful interview. Ideally, officers who take part in interviews should have had media training.

As stated in 3.b - a Senior Officer can only be interviewed or quoted in a press release with consent from the Leader/Deputy Leader.

#### **d) Political Releases and Statements:**

Political groups are responsible for producing releases and statements relating to their group and party-political issues. Political Assistants will pass these to the communications team shortly after issue and the communications team will share them with the relevant Cabinet Members, Group Leaders and Executive Directors. The communications team cannot be involved in this work, under the Government’s Code of Practice.

All Councillors are entitled to comment on any subject in their electoral division but must be clear that this is their opinion and not the opinion necessarily of the council. Any Councillor who is unsure of this position can seek advice from the communications team. The communications team cannot always provide quotes for local Members on electoral divisional matters.

**e) Members quoted in Council press releases:**

Cabinet Members and/or the Leader should be quoted in Council releases relating to their service area, unless the Council is in a pre-election purdah period, in which case, officers should be quoted.

**f) Circulation to Local Members:**

Where a Press releases or statement relates to a specific part of the county it should be shared with the relevant local Members before they are issued to the media, for their information. The local Member's contact details will be included on the release and local Members will be invited to quote in press releases where a quote is appropriate. The local Member will sign off the quot and is responsible for responding in a timely way.

Other information, for example following a meeting, that directly affects local Members, will be circulated to them by the relevant departmental officer team.

**g) Circulation to Group Leaders:**

Group Leaders and Members whose contact details are included on press releases should be promptly alerted to press releases before they are issued to the media, for information. This alert will be by email.

**h) Publication of Press Releases on the Council's Website:**

The communications team will publish general press releases and statements – in other words, those issued to all media – on its website and may share them on social media. It will not publish statements provided to specific media outlets or resulting from specific media enquiries but will keep a record of them on its internal system.

**i) Publication of Committee, Cabinet and Full Council Agenda Papers:**

Papers are published, where possible, five clear days before a Council, Cabinet or Committee meeting takes place. The Council generally issues a press release about certain items on the agenda at the same time the agenda is published. Group Leaders will be given copies of such releases and the reports to which they relate in advance of publication, so they have time to digest the issue prior to any media enquiry. This alert will be by email.

**j) Motions and Questions:**

Motions and questions from individual Members shown on an agenda will not be publicised by the Council as a matter of fairness.

**k) Pre-election period:**

Pre-election restrictions stop the Council from launching and publicising any new initiatives. Publicity must be restricted during this period to "business as usual" activity that pre-dates the calling of the election. Any publicity, event or activity must not involve Members, including Members if they are standing for district elections.



#### **l) Press releases:**

The communications team will email press releases to all Members as a matter of course and to all relevant local, regional and national media contacts and will update our distribution list when we become aware of new outlets or journalists. We will also post releases online and, where appropriate Tweet links to them and post them on Facebook, if that is judged to be the best way to reach a particular audience.

#### **m) Council meetings:**

Council meetings are recorded as a matter of course and the media and public are free to film, record or photograph Council meetings provided they notify the Chair of the Council and do not disrupt proceedings. We encourage broadcasters, as a courtesy, to inform the communications team in advance of any meetings they intend to record or film, due to the size of their equipment, so that we can suggest which part of the room they can film from.

#### **n) Public Information Notices**

Public Information Notices will give information and always provide the relevant departmental contact number. They will be distributed to all appropriate local media. Relevant local Members will receive the notice by email where it relates to a divisional issue that may prompt constituent concern or query.

A copy will be emailed to the named officer contacts and appropriate Executive Director for information.

#### **o) News Statements**

News statements will be issued by the communications team where necessary and appropriate in response to a particular request for comment. They will be printed on news release paper, clearly headed 'statement' and issued on request.

#### **p) Attributing comments and quotes**

Quotes and comments will normally be attributed to a named person, Member or officer as appropriate, so that people know who to get in touch with, in the event of further interest. This means that the communications team actively request the media to attribute quotes as opposed to the 'a council spokesperson said' approach.

#### **q) Use of Embargoes**

Embargoes should only be used sparingly. This would most typically be when a news release is linked to a launch event, when an issue of confidentiality requires it, or when a third-party requires it (e.g. announcement of award or additional funding). Embargoes are not legally enforceable and are adhered to by general local agreement.

#### **r) News Releases on Partnership issues or Projects**

Where we are either issuing or participating in the release of news on a partnership matter, the communications team will ensure that the Council's role or contribution is identified appropriately, and the release includes quotes from named Members or Officers and that the Council logo is included with others on the release paper.

### **s) Communications Support for Schools**

Practical support for schools is offered in times of particular difficulties or success. This is a paid for service and can be in the form of general advice and guidance, media releases, fielding media calls or media briefings/news conferences.

In general terms:

The content of all media releases will be cleared in advance with the Head teacher and, if possible, the Chair of Governors.

Any media release will make it clear it is being issued on behalf of the school concerned and headed with the name of the school governing body as appropriate.

Relevant school contact names and numbers will be included on any release except where prior agreement has been reached that communications team staff should field all calls in the first instance.

The Cabinet Member with responsibility for schools will be kept fully informed on media issues affecting schools in line with the 'no surprises' principle.

### **t) Letters for Publication**

The communications team will, in consultation with the appropriate Cabinet Member, consider the need to reply to letters and Parts about the Council or its services that appear in the press and help draw up letters for publication, if appropriate.

In such cases, the Cabinet Member concerned will sign the letter or agree who else is best to respond having seen and approved the text prior to it being submitted. A copy of the letter will be sent to the Leader and Deputy Leader at the time it is submitted for publication. If the issue requiring a response is general in nature, the response may come from the Leader of the Council.

Where letters raise issues of a party-political nature, Group Leaders, aided by their Political Assistants, will consider and deal with any required response as considered necessary and appropriate.

### **u) Dealing with Confidential Items**

The Council has some discretion over enquiries from journalists about the result of items discussed as an exempt item ("below the line").

The communications team will always seek to give the outcome of an issue taken 'below the line' – unless there are over-riding reasons not to do so, such as the handling of personal and sensitive issues affecting staff or clients, or financial and commercial issues.

Members of the communications team should consider each case individually, striking a balance between what is reasonable for an Authority to release, while considering any effects on individual service users that publicity may bring.

In these circumstances, officers should liaise with the department concerned before deciding the best course of action to follow.

#### **v) Social Media**

The Council will use social media, including Twitter and Facebook, to promote its news, in addition to conventional media. The communications unit is responsible for the Council's main channels and has the discretion to write and post material without clearance, provided it is in line with the social media protocol and the Council's key messages.

Members and staff who use social media are reminded that reporters and the public can view their posts and use them in stories. Social media activity should not be used to damage the reputation of the Council.

### **Part 2C: Protocol on the use of media equipment at meetings held in public**

- (1) The Council supports the principle of transparency and encourages filming, recording and taking photographs at its meetings that are open to the public. It also welcomes the use of social networking websites (such as Twitter and Facebook) and micro-blogging to communicate with people about what is happening, as it happens. There is no requirement to notify the Council in advance, but it should be noted that the Chair of the meeting will have absolute discretion to terminate or suspend any of these activities if, in their opinion, continuing to do so would prejudice proceedings at the meeting. The circumstances in which termination or suspension might occur could include:
  - public disturbance or suspension of the meeting;
  - the meeting agreeing to formally exclude the press and public from the meeting due to the confidential nature of the business being discussed; and
  - where it is considered that continued recording, photography, filming, webcasting might infringe the rights of any individual.
- (2) In allowing this, the Council asks those recording proceedings not to edit the film/ record/ photographs in a way that could lead to misinterpretation of the proceedings or from editing an image or views expressed in a way that may show a lack of respect towards those being photographed/filmed/ recorded.
- (3) At the beginning of each meeting, the Chair will make an announcement that the meeting may be filmed, recorded or photographed. Meeting agendas will also carry this message.
- (4) Anyone wishing to record must let the Chair of the meeting know and the recording must be overt (i.e. clearly visible to anyone at the meeting).
- (5) The Council understands that some members of the public attending its meetings may not wish to be recorded. The Chair of the meeting will facilitate this by ensuring that any such request not to be recorded is respected by those doing the recording. Those intending to bring large equipment or wishing to discuss any special requirements are

advised to contact the Council's Communications Team in advance of the meeting to seek advice and guidance. The use of flash photography or additional lighting will not be allowed unless this has been discussed in advance of the meeting and agreement reached on how it can be done without disrupting proceedings.

## **Part 3 – Members of the Council**

### **3.1 Composition and Eligibility**

**Composition.** The Council comprises 84 Members, otherwise called Councillors. One Councillor is elected by the voters of each electoral division in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State. One of the Councillors is elected annually to chair the Full Council meetings and attend to ceremonial duties.

**Eligibility.** Only registered voters of the county of Norfolk or those living or working there are eligible to hold the office of Councillor.

### **3.2 Election and Terms of Councillors**

The regular election of Councillors is held on the first Thursday in May every four years, the next being in 2021. The terms of office of Councillors start on the fourth day after being elected and finish on the fourth day after the date of the next regular election.

### **3.3 Roles and Functions of Councillors**

The Council has drawn up profiles covering the generic role of a County Councillor and the roles of Councillors who are appointed to specified positions of responsibility. The profiles are set out in this Part.

### **3.4 Rights and Duties**

- (a) Councillors have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (b) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (c) For these purposes “confidential” and “exempt” information are defined in the Access to Information Procedure Rules in Part 11A of this Constitution.

### **3.5 Conduct**

Councillors will at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer Relations. The consequences of not complying with the Code and the Protocol are set out in those documents.

### **3.6 Allowances**

Councillors are entitled to receive allowances and reimbursement of expenses in accordance with the Members’ Allowances Scheme.

## **Norfolk County Council – Role Profiles**

### **Norfolk County Councillors**

#### **Role and Function**

- 1.1 To participate constructively in the good governance of the area and actively encourage community participation in decision making i.e. be an advocate of and for the community.
- 1.2 To collectively be the ultimate policy makers, carrying out a number of strategic and corporate management functions and individually to contribute to the formation and scrutiny of the authority's priorities, policies, budget, strategies and service delivery which are reserved to the Council.
- 1.3 To represent effectively the interests of the electoral division for which the Councillor was elected and of individual constituents.
- 1.4 To champion the improvement of the quality of life of the community in terms of the environment, economy, education, safety, equity and well-being.
- 1.5 To act as a champion on the Council for specific issues, when required.
- 1.6 To represent the Council effectively when appointed to outside bodies.

All within the knowledge that Norfolk wishes to build:

- Strong and positive relationships within different communities and between people from different backgrounds.
- Accessible and inclusive services, opportunities and information for all, regardless of age, disability, gender, religion or belief, race, sexuality or geographical location.
- A county where people feel safe and free from harassment and can report incidents in the knowledge that issues will be handled sensitively and effectively.
- A workforce and work environment where diversity is valued, where employees are treated fairly on the basis of merit, and where all employees have the opportunity to fully contribute towards the success of the Council.

#### **Key Responsibilities**

- 2.1 To represent the community to the authority, through the various forums available and by being effective community leaders.

- 2.2 To fulfil the legal and locally determined requirements placed on an elected Member, including the completion of statutory declarations in a timely manner and compliance with all relevant codes of conduct.
- 2.3 To participate effectively as a Member of any Committee or other body to which the Member is appointed, including related responsibilities for the services falling within its terms of reference and its liaison with other public bodies, and to promote better understanding and partnership working.
- 2.4 To participate in the activities of an outside body to which the Councillor is appointed, providing two-way communication between organisations; and to develop and maintain a working knowledge of the authority's policies and practices in relation to that body and of the community's needs and aspirations in respect of that body's role and function.
- 2.5 To participate, as appointed, in the scrutiny and development of the services and policies of the authority and their effectiveness in meeting the strategic objectives of the authority and the needs of its residents and to assist individuals or groups to participate in the work of these committees.
- 2.6 To participate in consultative processes with the community and other organisations.
- 2.7 To develop and maintain a working knowledge of the Council's functions and activities, democratic and management arrangements, powers/duties and constraints and to develop good working relationships with relevant Council officers.
- 2.8 To develop and maintain a working knowledge of the organisations, services, activities and other factors which impact upon the community's well-being and identity.
- 2.9 To establish effective working relationships with any local Parish or Town Council including attending meetings and explaining the work of the Council.
- 2.10 To establish effective working relationships with District Councillors in the Member's Division.
- 2.11 To establish effective working relationships, as deemed necessary, with other authorities, agencies and organisations whose activities affect the Member's local area including the business, voluntary and community sectors.
- 2.12 To contribute constructively to open government and democratic renewal through active encouragement to the community to participate generally in the governance of the area.
- 2.13 To participate in the activities of any political group of which the Councillor is a Member.

- 2.14 To uphold the Council's Constitution, Code of Conduct and ethical standards.
- 2.15 To take advantage of appropriate development opportunities that will help fulfil all the duties above and any special responsibilities allocated to the individual Member.

### **Chair of the Council**

The Chair is elected annually by full Council.

### **Role and Responsibilities**

- 1. To provide civic and ceremonial leadership to the Council and to promote the Council as being at the heart of the community and civic life within Norfolk.
- 2. To host and attend civic and ceremonial functions.
- 3. To provide feedback to the Council on matters raised by others while performing the duties of Chair.
- 4. To preside impartially over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community, standing down from the Chair if they wish to participate in a debate as a local Member.
- 5. To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the executive are able to hold the executive to account.
- 6. In accordance with the Budget and Policy Framework Rules, and where the Chair of the Scrutiny Committee is unable to act, to decide whether or not a proposed decision which is contrary to the budget and policy framework needs to be taken as a matter of urgency.

### **Vice-Chair of the Council**

The Vice-Chair is elected annually by full Council. It is normal practice for the Vice-Chair in one year to be elected as Chair in the following year.

### **Role and Responsibilities in Support of the Chair**

- 1. To provide civic and ceremonial leadership to the Council and to promote the Council as being at the heart of the community and civil life within Norfolk.
- 2. To host and attend civic and ceremonial functions.



3. To provide feedback to the Council on matters raised by others while performing the duties of Chair.
4. To preside impartially over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community, standing down from the Chair if they wish to participate in a debate as a local Member.
5. To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the executive are able to hold the executive to account.
6. In accordance with the Budget and Policy Framework Rules, and where the Chair of the Scrutiny Committee is unable to act, to decide whether or not a proposed decision which is contrary to the budget and policy framework needs to be taken as a matter of urgency.

## **Leader of the Council**

### **Key Responsibilities**

This role profile should be read in conjunction with the one for Cabinet Members. It identifies the role and responsibilities of the Leader that are additional to those for a Cabinet Member and Group Leader.

1. To provide clear political direction and leadership to the Council, setting standards and expectations and encouraging Members to play a full part in the running of the Council and being effective community leaders.
2. To provide leadership to the Norfolk community.
3. To lead the formulation of the County Council Business Plan and the Council's Service Objectives, providing a strong, fair and visible direction to the Council and in relation to citizens, stakeholders and partners.
4. To Chair the Cabinet and be responsible for its performance.
5. To appoint the Cabinet and Deputy Cabinet Members, designate the portfolio areas and maintain effective working relationships with the Cabinet Members.
6. To delegate executive decision-making to individual Members of the Cabinet, Cabinet Committees and officers.
7. To lead in the development of policy, strategy and budget.
8. To report Cabinet's activities to full Council, including answering questions from Members in relation to business considered by Cabinet.
9. To represent the Council in its relationship with key stakeholders, local,

regional and national.

10. To be the primary political spokesperson for the County Council.
11. To promote effective working relationships with the other Group Leaders, including being Chair of the Group Leaders' meeting.
12. To encourage a culture of learning and development among Members, including the active participation of group Members in briefings, seminars and other learning and development processes.
13. To provide political direction for the Council's officers and in particular to work closely with the Chief Officers, ensuring coordination of the Council's leadership and management.
14. To ensure publication of the County Council Business Plan.

### **Deputy Leader of the Council**

#### **Role and Responsibilities**

1. To provide the Leader of the Council with a dedicated source of assistance in representing the Council to its citizens, stakeholders and partners and in providing political leadership for the Cabinet, the Council and the County.
2. To assist the Leader in carrying out the responsibilities set out in the role profile of the Leader.
3. To take day-to-day decisions on behalf of the Leader during their absence as notified to the Monitoring Officer.
4. To work with the Leader on budget and policy development.
5. Where the individual is also a portfolio holder, the post holder will perform all those portfolio duties identified in that role profile.

### **Cabinet Member**

#### **Key Responsibilities**

1. To collectively take executive responsibility, with particular regard to meetings of the Cabinet, for developing and proposing overall strategy, budgets and policy implementation.
2. Lead the development of policies for the delivery of services for their portfolio.
3. To develop expertise and knowledge in their portfolio area.
4. To take such decisions as specified within the Council's Scheme of

#### Delegation.

5. To consult non-executive Members, through the Select Committees and as part of the development and review of policy and report views to the Cabinet, as appropriate.
6. To monitor the performance of services.
7. To be the Council's lead spokesperson for their portfolio.
8. To be a lead Member contact for staff and establish and maintain effective working relationships with the County Leadership Team and other key staff.
9. To establish contacts with other bodies and individuals to exchange views and information and to contribute to partnership working.
10. To attend the Scrutiny Committee and Select Committees, as requested, to discuss decisions taken and to assist the scrutiny and policy development process.
11. To respond to questions relating to their portfolio arising at Council, Cabinet and Committee meetings.

#### **Deputy Cabinet Members**

##### **Role and Responsibilities**

1. To deputise for the relevant Cabinet Member at meetings of the Cabinet and full Council when the Cabinet Member cannot be present and to answer questions at those meetings on behalf of the Cabinet Member.
2. To support the Cabinet Member in undertaking their responsibilities effectively.
3. To attend and contribute at meetings and pre-agenda meetings, deputising, answering questions and speaking on behalf of the Cabinet Member where necessary.
4. To represent the relevant Cabinet Member at other appropriate meetings.
5. In the absence of the relevant Cabinet Member to be the Senior Member who a Chief Officer consults under the Constitution in appropriate cases before exercising delegated powers.
6. To undertake specific tasks, research and investigations as directed by the relevant Cabinet Member within their areas of responsibility.
7. To attend conferences, seminars and meetings as requested by the relevant Cabinet Member.

8. To keep abreast of current policy and development initiatives.
9. To meet regularly with the relevant Cabinet Member and advise them on policy development in relation to decision-making.
10. To meet regularly with relevant Senior Officers in order to keep fully apprised of relevant service issues and advise the Cabinet Member.
11. To attend regular policy and review meetings with the Cabinet Member and the relevant Chief Officer and Senior Officers.
12. To liaise with non-executive Members in order to ensure that the Cabinet Member is fully aware of issues which are of concern to Members.
13. To carry out any other appropriate duties as directed by the relevant Cabinet Member.

### **Group Leader**

The Council recognises the key leadership role played by the leaders of all groups on the Council and the importance of their commitment to cross-party working.

### **Role and Responsibilities**

1. To provide the leadership of an opposition party.
2. To be the principal political spokesperson for the Group.
3. To be a representative voice in dealings with government agencies, local authority associations etc.
4. To encourage the highest standards of conduct by Members of the Group.
5. To nominate Members to serve on Committees, outside bodies etc.
6. To appoint group spokespersons and allocate other responsibilities to group Members as appropriate.
7. To assist in ensuring appropriate levels of attendance are maintained by Group Members.
8. To encourage a culture of learning and development among Members, including the active participation of Group Members in briefings, seminars and other learning and development processes.
9. To maintain effective liaison with the other Group Leaders, including being a Member of the Group Leaders' meeting.
10. To establish and maintain effective working relationships with the County Leadership Team and other key staff.

11. To meet regularly with relevant Senior Officers in order to keep fully appraised of relevant service issues.
12. To attend regular policy and review meetings with the relevant Director and Senior Officers.

### **Chair of the Scrutiny Committee**

The Chair elected to this post is a member who is not a Member of the Administration, elected by the Council.

### **Role and Responsibilities**

1. To Chair the Committee's meetings and lead the agenda management processes.
2. To help ensure the Committee's role and activities are understood both within and outside the Council.
3. To act as the Council's lead spokesperson in respect of the Committee's activities.
4. To contribute to the implementation and monitoring of the Committee's decisions.
5. To present reports to full Council and respond to questions on the Committee's work.
6. To carry out the responsibilities of the Chair of the Scrutiny Committee as set out in the Council Constitution, with regard to urgent decisions.
7. To play a leading role in the continuing development and improvement of scrutiny at Norfolk County Council.
8. To encourage the involvement in overview and scrutiny of all interested parties and stakeholders.
9. To maintain effective working relationships with the Cabinet, Cabinet Members, group spokespersons on the Scrutiny Committee and Select Committees.
10. To maintain effective working relationships with the Chief Officers and other key officers.

### **Chair of Select Committee**

The Chairs of these Committees are elected by the Council.

## **Role and Responsibilities**

1. To Chair Select Committee meetings effectively, lead the agenda management process and actively participate in any cross-party pre-Committee meetings.
2. To help ensure the Select Committee's role and activities are understood by other Members of the Council.
3. To assist and advise on the development of new policy or reviewing current policy, making reports and/or recommendations to the full Council, the Cabinet and/or relevant partners.
4. To encourage Members to take responsibility for ensuring effective conduct of the Committee's business and the forward work programme.
5. To act as the Council's lead spokesperson in respect of the Committee's activities.
6. To give clear guidance and direction when summing up discussions at meetings of the Committee.
7. To establish effective working relationships with the Cabinet, Cabinet Members, Group Spokespeople on the Select Committee and other Select Committee Chair, including coordinating work programmes with other Chairs to ensure there is no duplication of effort.
8. To establish effective working relationships with the Chief Officers and other key officers.

## **Chair of Planning (Regulatory) Committee**

The Chair of this Committee is elected by the Council.

## **Role and Responsibilities**

1. To chair the meeting in accordance with the Constitution and the Planning Procedures – Code of Best Practice.
2. To ensure that contributions by the public are made in accordance with the relevant provisions of the Constitution.
3. To guide the Committee to reach decisions based on the information presented to it.
4. To ensure that Members' contributions to meetings reflect the standards required under the Council's Planning Protocols.
5. To represent the Council in dealings with the public, media and other bodies in respect of the work of the Committee.

6. To establish effective working relationships with the relevant Chief Officer and other key officers in this service area.

### **Vice Chair of Committees**

Vice Chairs are elected by Council

### **Role and Responsibilities in support of the Chairs of the relevant Committees**

1. To perform the role and responsibilities of Chair of the relevant Committee where the Chair of the relevant Committee is absent. In the absence of the Chair and Vice Chair, the Members of the Committee will elect a Member amongst them to act as Chair for the purpose of that meeting.
2. To undertake such roles and responsibilities as may be delegated to them by the Chair of the relevant Committee which are within scope of the role and responsibilities of the Chair of the relevant Committee.

### **Opposition Group Spokespersons**

These posts are held by Members of each of the political groups on the Council.

The overall role is to provide an effective political counter-balance to the role of the Cabinet Member.

### **Role and Responsibilities**

In respect of activities within the portfolio:

1. To develop expertise and knowledge.
2. To provide political focus and leadership within the Group.
3. To lead the development of approaches to policy and operational issues, on behalf of the Group.
4. To support the democratic process by ensuring that the activities of the Administration are examined and where necessary challenged.
5. To be the Group's lead spokesperson and first political point of contact within the Group.
6. To keep Members of the Group apprised of all relevant information.
7. To establish and maintain effective working relationships with Chief Officers and other key officers.
8. To establish effective working relationships with other Group spokespersons.

9. To establish appropriate contacts with other bodies and individuals to exchange views and learning.
10. To meet regularly with relevant Senior Officers in order to keep fully appraised of relevant service issues and to advise the Group Leader.

### **Member Champion**

The role of a Member Champion is to provide a Member focus and point of contact for a specific area of activity.

The focus of these appointments can be internal – giving a high-level Member focus to an area of activity or external – in response to organisations that want to raise awareness/ establish points of contact with local authorities.

Champions encourage people to play a fuller role in the subject area.

1. To work with officers and others in raising the profile of the area of activity.
2. To work collaboratively with the relevant Cabinet Member and Select Committee.
3. To work with other Member Champions, as appropriate.
4. To attend relevant training, learning and development opportunities.
5. To keep appraised of developments and issues.
6. To promote good practice.
7. To keep a watching brief on the Council's levels of performance.
8. To keep Members informed of relevant issues and raise awareness.

### **Register of Members' interests and Members' Code of Conduct**

#### **Introduction**

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.



The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

Norfolk County Council will keep this Code under review as guidance and best practice develops.

## **Definitions**

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who:

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

## **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty;
- I act lawfully;

- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community;
- I do not improperly seek to confer an advantage, or disadvantage, on any person;
- I avoid conflicts of interest;
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

### **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when:

- you are acting in your capacity as a councillor and/or as a representative of your council;
- you are claiming to act as a councillor and/or as a representative of your council;
- you are giving the impression that you are acting as a councillor and/or as a representative of your council; and
- you refer publicly to your role as a councillor or use knowledge you could only obtain in your role as a councillor.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring ] officer.

### **Standards of Councillor Conduct**

This section sets out your obligations, which are the minimum standards of conduct

required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken. Guidance is included to help explain the reasons for the obligations and how they should be followed.

## **General Conduct**

### **2. Respect**

#### **As a councillor:**

**2.1 I treat other councillors and members of the public with respect.**

**2.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors. In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the authority's councillor-officer protocol.

### **3. Bullying, harassment and discrimination**

#### **As a councillor:**

**3.1 I do not bully any person.**

**3.2 I do not harass any person.**

**3.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted

communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

#### **4. Impartiality of officers of the council**

**As a councillor:**

##### **4.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

#### **5. Confidentiality and access to information**

**As a councillor:**

##### **5.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

##### **5.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

##### **5.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **6. Disrepute**

### **As a councillor:**

#### **6.1 I do not bring my role or local authority into disrepute.**

As a councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **7. Use of position**

### **As a councillor:**

#### **7.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **8. Use of Local Authority Resources and Facilities**

### **As a councillor:**

#### **8.1 I do not misuse council resources.**

#### **8.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport

- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **9. Complying with the Code of Conduct**

**As a councillor:**

**9.1 I undertake Code of Conduct training provided by my local authority.**

**9.2 I cooperate with any Code of Conduct investigation and/or determination.**

**9.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**9.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you, as a councillor, to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

## **Protecting your reputation and the reputation of the local authority**

### **10. Interests**

**As a councillor:**

**10.1 I register and declare my interests.**

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be declared by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

The Council's Monitoring Officer has established, and maintains, a register of the interests of the Members and co-opted Members of the County Council, as required by Section 29 of the Localism Act 2011. This register contains details of members' Disclosable Pecuniary Interest (DPIs).

The register is open to inspection by the public.

Members' interests are published on the County Council's website unless the Monitoring Officer has agreed that the interest if disclosed, could lead to the Member being subject to violence or intimidation (section 32 of the Localism Act 2011).

## **11. Gifts and hospitality**

### **As a councillor:**

- 11.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 11.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 11.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.



## **Appendix B**

### **Registering Interests**

1. Within 28 days of this Code of Conduct being adopted by the local authority or your election or appointment to office (where that is later) you must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) and Table 2 (Other Interests). Disclosable Pecuniary Interests means issues relating to money and finances.
2. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
3. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor/member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.
4. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### **Declaring interests**

5. Where a matter arises at a meeting which directly relates one of your Disclosable Pecuniary Interests, you must declare the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest, just that you have an interest.
6. In addition, if a matter affects, to a greater extent than others in my division:
  - my wellbeing or financial position; or
  - that of family or close friends; or
  - any body –
    - (a) exercising functions of a public nature; or
    - (b) directed to charitable purposes; or
    - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);

of which I am in a position of general control or management

then I will declare an interest (an "Other Interest") but provided it is not a DPI I may speak and vote on the matter.

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by them in carrying out their duties as a councillor, or towards their election expenses.  This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or their spouse or civil partner or the person with whom the
	councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — ) under which goods or services are to be provided or works are to be executed; and ) which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. ‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy

	or to receive income.
<b>Licences</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the councillor, or thier spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— ) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and ) either— ) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or ) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or their spouse or civil partner or the person with whom the councillor is living as if they were
	spouses/civil partners has a beneficial interest which exceeds one hundredth of the total issued share capital of that class.

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## **Members' Allowances Scheme**

The Norfolk County Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003, makes the following scheme:

### **1. The scheme**

This Scheme, which is called the Norfolk County Council Members' Allowances Scheme, will have effect commencing on 1 April 2019 and for subsequent years unless, and until, amended.

### **2. In this scheme**

"Councillor" means an elected Member of Norfolk County Council

"year" means the 12 months ending with 31st March

### **3. Basic allowance**

Subject to paragraph 8, which deals with part year entitlements, a basic allowance will be paid in instalment to each Councillor each year. The current rate is shown in Appendix A.

### **4. Special responsibility allowances**

- (1) Each year a special responsibility allowance will be paid to those Councillors who hold the special responsibilities that are specified in Appendix B.
- (2) Subject to paragraph 8, the amount of each allowance will be the amount specified in Appendix B.
- (3) A Councillor is only eligible to receive one Special Responsibility Allowance (the highest).
- (4) Members of a political group shall only be eligible to receive Special Responsibility Allowances if there are at least 9 members in the group. This provision applies only to those SRA posts relating to Group activities, i.e. Group Leader, Deputy Group Leader, Group Spokesperson. It does not apply to other SRA posts.

### **5. Carers' allowance**

- (1) Councillors who incur costs for the care of children for whom they have parental responsibility or for dependent relatives in order to allow them to carry out their Council duties can claim a carers' allowance. The rate for the Allowance is set out in Appendix A of this scheme. A carers' allowance can be claimed only in respect of approved duties as set out in Appendix C of this scheme.

- (2) In the case of a carers' allowance for childcare:
- (i) The allowance is available for the care of children under 14 years of age who normally reside with the Councillor.
  - (ii) The allowance cannot be claimed for the care of children of compulsory school age during normal school hours except where the child is absent from school due to illness.
- (3) In the case of a carers' allowance for the care of a dependent relative, the relative must normally reside with the Councillor, be dependent on the Councillor and require constant care.
- (4) Expenditure incurred will be reimbursed up to the maximum hourly rate (as set out in Appendix A of this scheme) for each hour of absence from home.
- (5) Payment will only be made for the period of the qualifying meeting and the travelling time to and from the Councillor's home.
- (6) A signed receipt from the carer, showing their name, signature and address, the period worked and the amount received must be retained by the Councillor for the statutory period of six years plus the current year, for audit purposes.
- (7) A carer's allowance can be paid only for care provided by a registered childminder or other statutory approved childcare provider, or to agencies or persons professionally qualified or registered to provide the care required by the dependent relative. An allowance will not normally be paid for care provided by anyone else or by someone who is a close relative of the Councillor. In exceptional circumstances, where a Councillor is unable to find a suitable statutory provider or registered professional carer, a claim to pay another person may be considered, subject to the approval of the Executive Director Finance & Commercial Services and Commercial Services before the expense is incurred. If an exceptional circumstances claim relates to care provided by a family member, it must be accompanied by a statement signed by the carer and the Councillor verifying that the carer incurred a loss of income in order to provide the care.

## **6. Co-opted Members**

Co-opted Members are entitled to claim travelling, subsistence and carers' allowances at the rates set out within this Scheme. A "Co-optees allowance" is payable as determined by the County Council. Any such allowances are shown in Appendix A.

## **7. Renunciation**

A Councillor may elect to forego any part of their entitlement to an allowance under this Scheme by notifying the Executive Director Finance & Commercial Services and Commercial Services in writing.

## **8. Part-year entitlements**

(1) If, during the course of a year:

- this Scheme is amended;
- or the amount payable is changed;
- or a Councillor becomes, or ceases to be, a Councillor;
- or a Councillor accepts or relinquishes a special responsibility for which a special responsibility allowance is payable,

entitlement to allowances will be calculated pro rata according to the number of days in the month in question.

(2) If changes are made to the category of any allowance etc. the allowance payable will be that which was applicable when the duty was undertaken.

## **9. Travel allowance**

This allowance is intended to reimburse expenditure necessarily incurred on all journeys undertaken on approved duties as set out in Appendix C. Travel allowances will be same as, and linked to, the rates which apply to officers of the Council.

### **(1) Motor vehicles**

Where travel by car or motorcycle:

- results in a substantial saving of the Members' time; or
- is in the interests of the Council; or
- is otherwise reasonable

an allowance is payable and the conditions applying are as follows:

- (a) A passenger supplement for passengers on official Council business is paid per passenger per mile, up to a maximum of four passengers
- (b) Councillors will be responsible for ensuring that they have adequate insurance cover for business use.
- (c) The rates payable are shown in Appendix A.

### **(2) Hired motor vehicles (taxi cab)**

The actual fare and any reasonable gratuity will be paid in cases of urgency or where no convenient public service is available. Otherwise, an allowance not exceeding the amount of the fare for travel by appropriate public service transport will be paid.

### **(3) Hired motor vehicles (other than a taxicab)**

The actual cost of hiring for the period of Council duty will be paid.

**(1) Motorcycle**

Travel by motorcycle will be reimbursed at the rate set out in Appendix A.

**(5) Bicycle**

Travel by bicycle will be reimbursed at the rate set out in Appendix A.

**(6) Public service transport**

**By rail**

Normally standard class fare or actual fare paid (if less) will be paid. Reimbursement of first class fare will be paid only where it is clearly in the County Council's interest for a Councillor to travel first class and approval has been given in advance by the Head of Paid Service.

Councillors who are eligible to hold a senior citizen's rail card can purchase them and be reimbursed by the County Council through the expenses claim mechanism.

**Supplementary allowances**

Reimbursement, not exceeding actual expenditure incurred, will be paid for:

- (a) Pullman car or similar supplements, reservation of seats and deposit or portage of luggage.
- (b) Sleeping accommodation on the train for an overnight journey, subject to reduction by one-third of any subsistence allowance payable for that night.

**(7) Air travel**

- (1) Subject to the prior agreement of the Head of Paid Service that the saving in time justifies payment of the fare for travel by air, there may be paid an amount not exceeding;

- (a) the ordinary fare or any available cheap fare for travel by regular air service, or
- (b) where no such service is available, or in case of urgency, the fare actually paid by the Councillor.

**10. Subsistence allowance**

Subsistence allowances will be the same as, and linked to, the rates for employees. Employees are not normally entitled to claim a subsistence allowance where their duties have prevented them from following their normal meal arrangements. Subsistence can only be claimed in exceptional circumstances where it would be unreasonable to expect the Councillor to bear the cost of the meal and the Councillor is unavoidably put to exceptional expense. Circumstances where a Councillor may claim subsistence include:

- Attending a conference or training event when the Councillor is required to purchase a meal at the event.
- Attending an event that necessitates an overnight stay where meals have not been included.

A Councillor may claim 50% of their broadband home connection, subject to a maximum of £13 per month.

## **11. Duties performed for more than one body**

A Councillor who is both a County Councillor and a Member of another local authority or public body may claim allowances from both authorities should they undertake two separate duties, one for each authority, on the same day. A Member of the County Council who is also a Member of another authority may not however claim from both authorities for undertaking the same duty. Councillors must take particular care to avoid duplication or overlap of claims for travelling and subsistence. Claims for duties undertaken for other councils or public bodies should be sent to the Authority concerned and not included in claims on the County Council.

## **12. Official and courtesy visits**

**Provided they have been approved by the appropriate Committee**, official and courtesy visits by Councillors are eligible for travelling and subsistence claims at the rates set out in Appendix A if the journey is within the United Kingdom. If outside the United Kingdom, the travelling and subsistence expenses are limited to that which is reasonable in all the circumstances.

## **13. Prior approval**

The appointment of a Councillor to a committee, sub-committee or working group etc., or as a representative of the Council on other bodies, is deemed to satisfy the need for prior approval before a claim can be submitted

## **14. Claims and payments**

- (1) A claim for travel, subsistence and carers' allowances under this Scheme should be made each month but, in any event, not less than quarterly. **Claims must be received by close of play on the 1<sup>st</sup> day of the month**
- (2) All claims for travel, subsistence or carers' allowance must include a clear indication of the specific category of approved duty under which the claim is submitted. This is with reference to the list of approved duties at Appendix C.
- (3) Councillors who fail to submit a claim within three months of carrying out the duty or incurring the expense will be deemed, automatically, to have waived their right to claim. The Executive Director Finance & Commercial Services and Commercial Services must be advised in writing if a Councillor opts not to claim allowances.



- (4) Payments will be made on the 19<sup>th</sup> day of each month. The basic and special responsibility allowances will be paid in instalments of one-twelfth of the amount specified in this Scheme. Where a payment of one-twelfth of the amount would result in the Councillor receiving more than the amount to which, by virtue of paragraph 8, they are entitled, the payment will be restricted to the amount to which that Councillor is entitled.
- (5) If claims are amended by the Executive Director Finance & Commercial Services and Commercial Services by £10 or more the Councillor concerned will be informed.
- (6) A Councillor who has been overpaid under the terms of this Scheme will be advised of the situation and arrangements will be made for the immediate recovery of the overpayment or taken from subsequent claim(s).
- (7) By submitting expense claims electronically, Councillors are responsible for retaining VAT receipts for all claims, for the statutory period of six years, plus the current year. Claims are subject to audit and supporting receipts may be called upon to substantiate a claim.
- (8) Councillors are reminded that responsibility for the accuracy and propriety of claims rests with the individual Councillor making the claim. Reliance is placed by the Executive Director Finance & Commercial Services and Commercial Services on the declaration signed by the claimant on each claim form.
- (9) Where payment of any allowance has already been made in respect of any period during which the Councillor concerned:
  - (i) ceases to be a Member of the Council; or
  - (ii) is in any other way not entitled to receive the allowance in respect of that period;the Council will require that such part of the allowance as relates to any such period be repaid to the Council.

## **15. Records**

A record will be kept of the payments made by the Council in accordance with this Scheme. The record will specify the name of the recipient and the amount and nature of each payment. This record will be available at all reasonable times for inspection (free of charge) by any local government elector for the County. The record will be supplied in copy to any person who requests such a copy and who pays such reasonable fee as the Council may determine. The County Council will publish on its website figures showing allowances paid to individual Councillors on an annual basis. The County Council will also publish on its website on a monthly basis the allowances payments made to each Councillor.

## **16. Income Tax and National Insurance provisions**

Details of the effect on Councillors are to be found in Appendix (D).

## Appendix A

### Current Allowances – 2020/21

**Basic allowance** £11,224

#### **Travel allowance**

Car or van

Rate per mile	45p for first 10,000 miles 25p after 10,000 miles
Passenger supplement per passenger per mile for up to 4 passengers	5p per (passenger per mile)

Motorcycle or Moped 24p per mile

Bicycle 20p per mile

#### **Subsistence rates**

Councillors are reminded that subsistence allowances can **only** be claimed in exceptional circumstances as set out in paragraph 10 and these are the maximum sums reimbursable for expenses actually incurred. Claims for meals and subsistence must be supported with VAT receipts or they will not be authorised for payment.

(1)	Day Subsistence	<u>Standard Rate</u>	<u>Special Rate*</u>
(a)	Breakfast Allowance – Payable if you leave home before 7.30 a.m.	£6.62	£8.75
(b)	Lunch Allowance – Payable for absence between 12 noon and 2.30 p.m.	£9.10	£13.18
(c)	Tea Allowance – Payable for absence after 6.30 p.m.	£3.58	£4.41
(d)	Evening Meal Allowance – Payable for absence after 8.30 p.m.	£11.27	£17.61
(2)	Overnight Subsistence (24 hour period)		
	London and approved conferences	£108.20	
	Elsewhere	£77.23	

\*The special rate is payable in respect of visits to London, attendance at conferences or other exceptional duties.

### **Carers' allowance**

A carers' allowance is payable at an hourly rate of the National Living Wage (£8.21) plus 20% - equates to £9.85 per hour. Subject to a limit of £3,168 per Councillor per annum.

### **Co-optees allowance**

A Co-Optees Allowance of £1,040 per annum is payable to the Independent Members of the Norfolk Police and Crime Panel.

### **Review of levels of allowance**

Travel and subsistence allowances will be amended annually in line with the rates for officers. The levels of basic, special responsibility and carers' allowances and co-optees allowance will be reviewed annually and increased by an equivalent percentage to the pay award agreed by the National Joint Council for Local Authority Staff. The indexing arrangement will next apply in 2020/21. The annual indexing arrangement will apply for a maximum period of three years, after which its application will be reviewed by the Independent Remuneration Panel.

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**Special Responsibility Allowances**

<b>New structure post and numbers</b>	<b>SRA</b>	<b>% of Leader allowance</b>
Leader of the Council	£33,888	100%
Deputy Leader of the Council	£22,027	65%
Cabinet Members	£16,944	50%
Deputy Cabinet Member	£6,777	20%
Chair of Select Committee	£ 6,777	20%
Chair of Scrutiny Committee	£16,944	50%
Leader of Political Group with 31 or more Members *	£16,944	50%
Leader of Political Group with 21-30 Members *	£11,183	33%
Vice Chair of Scrutiny Committee	£5,083	15%
Leader of Political Group with 9-20 Members *	£6,777	20%
Deputy Leader of Political Group with 31 or more Members *	£4,236	25% of Group Leader SRA
Deputy Leader of Political Group with 21-30 Members *	£2,795	25% of Group Leader SRA
Deputy Leader of Political Group with 9-20 Members *	£1,694	25% of Group Leader SRA
Chair of the Council	£13,555	40%
Vice-Chair of Council	£2,541	7.5%
Chair of Planning Regulatory	£6,777	20%
Chair of Audit Committee	£6,777	20%
Chair of Pensions Committee	£6,777	20%
Chair of Health Overview and Scrutiny Committee	£5,083	15%
Chair of Standards Committee	£2,541	7.5%
Member of Adoption Panel/Foster Panel	£3,388	10%
Chair of Records Committee #	£3,388	10%
Chair of Joint Museums Committee #	£3,388	10%
Opposition Spokes aligned to the functions reporting to the Select Committees		
Major Opposition Group* (x3)	£2,541	7.5%
Second Opposition Group* (x3)	£1,694	5%

\*SRAs are only payable to opposition groups that have at least 9 members.

# The SRAs for the Chair of the Records Committee and the Joint Museums Committee are payable only where the Chair is a County Councillor appointed to the Committee by the County Council

**Members' Allowances Scheme**

**Duties approved for the purposes of travelling, subsistence and carers' allowances**

The following are approved duties for the purpose of travelling, subsistence and carers' allowances.

- (a) (i) Attendance at meetings of Cabinet, committees, sub-committees, Panels, Joint Committees, Consultative and Advisory Bodies and working groups on which the claimant is an appointed member.
- (ii) Attendance at:
- Full Council meetings
  - Committee meetings which the Councillor attends as a properly appointed substitute.
  - Committee meetings which the Councillor attends in order to speak on a local Member matter under consideration, or to ask a question on any significant matter affecting their Division within the Committee's terms of reference
- (iii) Attendance by the Leader, Deputy Leader, Group Leaders and Deputy Group Leaders at joint Leader meetings or at pre-arranged briefing meetings with the Head of Paid Service or other Chief Officers/Senior Officers.
- (iv) Attendance by Cabinet Members at Cabinet briefings and at pre-arranged briefing meetings with Chief Officers/Senior Officers on matters relating to their areas of responsibility.
- (v) Attendance by Chair and Vice-Chair of Committees and opposition spokespeople at pre-arranged pre-agenda meetings/briefings with Chief Officers/Senior Officers.
- (vi) Attendance by Councillors at pre-arranged meetings with officers to discuss matters relating to their Division. (This is subject to a maximum number of claims per Councillor of two per calendar month).
- (vii) Attendance by members of the Health Overview and Scrutiny Committee at meetings of health care organisations to which they have been given an "affiliate" role.

- (b) Site meetings, visits or inspections by committees arranged by them (or, in cases of urgency, after consultation with their spokespeople and subject to report to committee).
- (c) Organised official visits including deputations to Government Departments, meetings with MPs/MEPs on Council business and meetings with Government inspectors etc.
- (d) Duties undertaken by Councillors in respect of outside bodies to which the Council has properly appointed them.

Payment of allowances under (d) above is restricted to meetings of the body to which the Councillor has been appointed. However, if a Councillor is considering attending an associated event relating to the outside body, such as a conference, seminar, book launch, opening etc. then the Councillor should notify the Executive Director Finance & Commercial Services and Commercial Services in advance of the visit. The Executive Director Finance & Commercial Services and Commercial Services has delegated authority to determine that allowances will be paid in these circumstances, if it can be demonstrated that the Councillor's attendance is necessary to enable them to carry out the duty for which they have been appointed to the body concerned.

Councillors cannot claim attendance allowances, but if such allowances are payable by the outside body, the Councillor must include details on their claim form so that the County Council can seek recovery of them.

- (e) Attendance at consultation meetings with the public or other organisations arranged by a Committee, the Head of Paid Service, a Chief Officer or Head of Service.
- (f) Attendance at external seminars and conferences authorised by the Assistant Director of Governance (Democratic and Regulatory Services) after consultation with the Chair of the Member Support and Development Advisory Group.
- (g) Attendance at seminars, briefing meetings and training events for Councillors, convened by the Head of Paid Service, a Chief Officer or Head of Service, e.g. on service planning, new legislation and on service and policy issues, or to discuss particular local issues.
- (h) Attendance at town or parish Council meetings within a Councillor's division.
- (i) Visits by Member Champions in the performance of their role.
- (j) Visits to establishments, official openings, open days, sports days or similar events, but only if at the invitation of the Head of Paid Service, a Chief Officer or Head of Service to attend as the local Councillor or to perform a specific function at the event.
- (k) Visits and Inspections necessarily made by the Chair of Committees, Sub-Committees etc. in order to carry out their duties in that capacity, provided that they are reported to the Committee/Sub-Committee concerned.
- (l) Official and courtesy visits of a civic nature within the United Kingdom and those abroad (such as twinning arrangements with overseas authorities) subject to the

prior approval of the Cabinet.

- (m) Visits to County Hall to hand in/collect Council-provided computer equipment before and after maintenance/repair work.
- (n) Functions attended by the Chair of the Council which are directly related to the office of Chair. Where the Vice-Chair deputises for the Chair, the Vice-Chair shall be entitled to receive such allowances as would have applied to the Chair.

**For the clear avoidance of doubt, the following are not eligible for reimbursement of travelling, subsistence and Carers' Allowance: -**

**Attendance at school governing body meetings as an LEA appointed governor.**

**Attendance at political group meetings.**

**Attendance at civic receptions, Chair's receptions, services, parades etc.**

**Constituency meetings/surgeries.**

**Attendance at meetings of outside bodies on which Councillors serve but to which they have not been appointed by the County Council.**

## **Members allowances – Income Tax and National Insurance aspects**

These guidance notes are for information only and should not be relied upon for tax planning purposes. All income tax and national insurance queries should be addressed to HM Revenue and Customs (see contact details below).

The information contained in this guidance is based on HMRC notice EIM65940 – Tax treatment of Local Government Councillors and civic dignitaries: expenses deductions: home as a workplace and taking into account HMRC policy paper Tax Exemption for travel expenses of Members of local authorities.

This specifies the current rates applicable.

### **1. Income Tax**

- (1) Basic, Special Responsibility, dependants' Carers' Allowances and co-optees' allowances are taxable under PAYE arrangements but tax relief can be obtained for expenses incurred wholly, exclusively and necessarily in the performance of the duties of a County Councillor to the extent that they are not reimbursed.
- (2) Legislation was introduced in the Finance Bill 2015 to specifically exempt payment of Councillors travel expenses by a local authority from a charge to income tax under certain provisions. This includes expenses paid for journeys between the Councillor's home and most frequently used local authority office, except where the Councillor's home is more than 20 miles from the boundary of the local authority area.
- (3) Travel Allowance reimbursements above the statutory rates – (see Appendix A) are taxable as a benefit in kind.
- (4) Income Tax will be deducted from basic, special responsibility, dependants', carers allowances and co-optees allowance at the standard rate unless HM Revenue and Customs issues more specific instructions.
- (3) Any enquiries relating to tax relief should be addressed to: HM Revenue and Customs Telephone Number 0300 200 3300 or via the intranet at <https://www.gov.uk/contact-hmrc>
- (4) If you are registered under self-assessment, you will need to quote your Unique Taxpayer Reference (UTR), otherwise you will need to quote your national insurance number and the Council's PAYE reference: 531/N3722.

### **2. National Insurance**

- (1) Basic, special responsibility, dependants carers' allowances and co-optees allowances come within the definition of remuneration for National Insurance purposes and consequently the appropriate national insurance contributions have to be deducted unless the Councillor is regarded as "retired for national insurance purposes". The contributions together with the corresponding employer's



contributions are paid over to HM Revenue and Customs by the County Council. The liability for contributions is additional to that which a County Councillor may have as an employed or self-employed person.

## **Protocol on Member/Officer Relations**

### **Introduction**

1. This protocol deals with the working relationships between the elected Members on the County Council and the officers of the Council. Its purpose is to ensure the smooth running of the Council's processes.
2. The protocol is based on the principle that an officer's duty is to all Members of the Council as a single corporate body. Officers have, therefore, to provide information, offer advice and give assistance in the formulation of policy proposals impartially to all political groups who wish such information, advice or assistance.

### **Principles for Member/Officer Working**

3. Councillors and officers are servants of the public. The effectiveness of the outcomes they are able to deliver for residents is dependent on a strong and constructive relationship which adheres to a set of clear principles. These principles are:
  - Mutual respect for each other's roles and responsibilities.
  - Dealings between Members and Offices should be courteous and conducted in a constructive and positive way.
  - Neither party should seek to take unfair advantage of their position or seek to exert undue influence.
  - Respecting the confidentiality of information given and received as part of County Council business.
  - Concerns as to the conduct of officers should be made to the relevant Chief Officer, and of Members, to the Monitoring Officer.

### **Roles**

4. Members and officers have distinctive responsibilities. Councillors are responsible to the electorate and to the County Council. Officers are responsible to the Council, and also have a public service role. Their job is to give advice to Councillors and the Council and to carry out the Council's work under the direction and control of the Council, the Leader, the Executive and the Council's Committees. Officers are responsible for ensuring the effective and efficient operations of services the Council commissions or delivers. Some Council

officers hold statutory positions and have particular public responsibilities. These officers are:

Head of Paid Service

Executive Director Finance & Commercial Services and Commercial Services (Section 151 Officer)

Director of Governance (Monitoring Officer)

Executive Director of Children's Services

Executive Director of Adult Social Services

Chief Fire Officer

Director of Public Health (DPH)

The specific roles and responsibilities of these officers are set out in Part 9.

5. The specific roles and functions of Councillors are contained in Part 2 paragraph 1.3 of the Constitution. Broadly these are: -
  - as politicians - expressing political values and supporting the policies of the group to which they belong
  - as representatives and advocates - engaging with their communities to represent the division or ward and the citizens who live there
  - as decision makers, on Full Council, the Executive, and the Council's Committees (including Joint Committees)
  - as policy makers - developing and reviewing policy and strategy
  - monitoring and reviewing policy implementation and service quality
  - as community leaders and networkers - through active partnerships with other organisations.
6. In broad terms officers have the following main roles: -
  - managing and providing the services for which the Council or a committee has given them responsibility and being accountable for the efficiency and effectiveness of those services and for proper and lawful practice in discharging their responsibilities
  - giving professional and impartial advice to the Council, the Executive, the Council's Committees, joint Committees where appropriate and individual Members in respect of its services
  - initiating policy proposals as well as implementing agreed policy; and
  - ensuring that the Council always acts in a lawful manner.

## **Officers and Whole Council**

7. This Constitution includes provision for a single party Cabinet and a clear division between the Cabinet and Scrutiny roles of Members.
8. However, officers are required always to serve the whole Council and will need to exercise judgement in fulfilling this obligation whilst maintaining the distinction between Cabinet and Scrutiny.

## **Officers and Committees**

9. Any decision by the Leader, by Cabinet collectively and individual Cabinet Members must

take into account advice from the appropriate officer. An officer's obligation to the whole Council requires that such advice is given, and that the advice is independent. Cabinet Members must not seek to suppress or amend any aspect of such professional advice.

10. Reports to the Cabinet will be produced by officers and there will also be occasions when a Cabinet Member prepares a report. In either situation the appropriate officer will place on record their professional advice to the Cabinet and ensure that the advice is considered when a decision is taken. Procedures exist to ensure that this happens.
11. Whenever officers represent the decisions of the Leader or of the Cabinet, non-Cabinet Members will need to recognise that in so doing the officer is representing a decision made by Members.
12. Similar principles will apply to decisions taken by Committees (including joint Committees) of the Council.

### **Officers and Overview and Scrutiny**

13. It is critical to the smooth and effective running of the Council that officers provide the same high levels of impartial advice to the Scrutiny Committee as they do to the Executive.

### **Officers and Individual Members**

14. Any Group Leader, Cabinet Member, Group Spokesperson, Scrutiny Committee Chair or Committee Chair may request a private and confidential briefing from a Chief Officer or head of the relevant unit on matters which have already been, or may be, discussed by the Council or one of its decision making or advisory bodies. All requests should be made to the appropriate Chief Officer or head of the unit. Briefings shall remain strictly confidential and are not to be shared with other Members of the Council unless so permitted by the relevant Member. In addition, briefings should not be used by Members or Chief Officers to pre-empt the decision-making processes laid down in the Constitution. Other Members may seek private and confidential briefings with the agreement of their group leader.
15. Except for the confidential matters referred to above, information given to a Group Leader, Cabinet Member, Group Spokesperson, Scrutiny Committee or other Committee Chair will where possible be shared with the relevant representatives of the other political groups.
16. In general, the Council encourages dialogue between Members and officers, during working hours and taking into account the proper processes, on all issues affecting the Council.
17. The rights of Members to documents and information of the Council are set out in the Access to Information Procedure Rules. In circumstances where the Chief Officer and Member disagree as to whether the Member is entitled to the information the matter will be referred to the Head of Paid Service, for decision. If the matter is still unresolved, it will be decided by the Council itself.

## **Officers and Political Party Groups**

18. There is statutory recognition for Political Groups, and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of consideration by the relevant Council body.
19. On the invitation of a Group Leader a Chief Officer or their nominee may attend a Group meeting to give factual information. In such circumstances the following guiding principles apply:
  - a) no officer is obliged to accept an invitation to a Group meeting;
  - b) no officer is entitled to insist on attending a Group meeting;
  - c) the duration of an officer's attendance at a Group meeting will be at the discretion of the Group but an officer may leave if they feel uncomfortable remaining at the meeting;
  - d) an officer accepting an invitation to the meeting of one Group must not decline an invitation to advise another Group on the same subject;
  - e) an officer who is not a Chief Officer will not be invited to attend a Group meeting, but a Chief Officer may nominate such an officer to attend on their behalf;
  - f) an officer's advice to the Group meeting must be confined to matters of factual information or professional expertise;
  - g) an officer must give substantially the same advice to each Group on any matter raised by more than one;
  - h) an officer must not divulge to any Member of the Council the views expressed by Members at a meeting of a Group to which the Member in question does not belong;
  - i) an officer must be afforded an opportunity of verifying any record of their advice contained in the minutes of a Group meeting; and
  - j) no Member will refer in public or in meetings of Council, the Cabinet or committees, or in communication with the media, to advice or information given by an officer in any Group meeting.

## **Officers and Local Members**

20. It is essential for the proper running of the Council that Members should be fully informed about matters on which they may be required to make decisions, or which affect their electoral divisions. It is the duty of each Chief Officer to ensure that all relevant staff are aware of the requirement to keep local Members informed and that the timing of such information allows Members to contribute to those decisions. Local Members must also be kept informed about matters affecting their division during the formative stages of policy development and consideration by the Select Committees or other committees of the Council and about significant operational matters within the Division.
21. Issues may affect a single electoral division, but others may have a wider impact in which case any number of Members will need to be kept informed.
22. Local Members have an important role to play in representing the County Council in their divisions, responding to the concerns of their constituents, meeting with partners and serving on outside organisations.
23. Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the electoral divisions affected should, as a matter of course, be invited to attend the meeting.
24. Similarly, whenever the Council undertakes any form of consultative exercise the local Members will be consulted.

## **Access to Premises**

25. Members are welcome to visit any premises owned and used for the delivery of services by Norfolk County Council when doing so as part of their county council responsibilities. If such visits are needed for a personal or employment need, or as a governor or trustee, Members should agree these arrangements for the visit with the local manager.
26. In addition, any Council Member wishing to visit a school must also obtain the permission of the head teacher. If the school is an Academy school, they will not have a right to visit the school, but may do so with the permission of the headteacher. The same applies when wishing to visit residential establishments on Council business. If Members wish to visit premises outside their division as part of their Norfolk County Council duties, they should also inform the Member for that division, the relevant Cabinet Member and the relevant Committee Chair. Where Cabinet Members and Committee Chairs wish to visit premises outside their division, they should inform the Member for that Division. At all times when making visits, Members are required to comply with any health and safety, security or other workplace rules and regulations and not interfere with the provision of services to the public.
27. Members do not have rights to:
  - Visit premises for purposes unrelated to their duties as Members of the Council.
  - Enter premises owned by Norfolk County Council but let to or legally occupied by other persons.

- Enter premises not owned or leased by Norfolk County Council.
- Enter premises operated by Companies in which the Norfolk County Council has an interest without the Company's permission.

## **Councillor Call for Action (CCfA) Guidance**

### **1. What is a Councillor Call for Action (CCfA)?**

- 1.1 Councillor Calls for Action were introduced by section 119 of the Local Government and Public Involvement in Health Act 2007 ('the Act'). They are one of a number of measures aimed at empowering local people and communities, improving local democracy and accountability and strengthening the role of Councillors as community leaders and advocates.
- 1.2 A CCfA gives powers to Councillors to help them tackle local problems on behalf of their constituents by calling for consideration of any issue of concern affecting their division by the Scrutiny Committee, including the Health Overview and Scrutiny Committee.
- 1.3 Section 119 of the Act inserts a new section 21A into the Local Government Act 2000 which enables any Member of the authority to refer any local government matter to the Scrutiny Committee, whether or not the Member is a member of that committee, and to have this matter discussed at a meeting of the committee. A "local government matter" is defined as a matter which:
  - relates to the discharge of any function of the authority,
  - affects all or part of the electoral area for which the Member is elected or any person who lives or works there, and
  - is not an excluded matter (see section 5 below)
- 1.4 Section 126 of the Act makes provision for CCfA's on crime and disorder matters – see section 3 below.

### **2. Existing provisions in the County Council's Constitution**

- 2.1 The County Council's constitution allows a wide remit for the Scrutiny Committee. Part 5 provides that:
  - (i) The Council appoints the Scrutiny Committee from among the non-executive Members of the Council to review or scrutinise decisions made or other action taken in accordance with:
    - a) any functions which are the responsibility of the Executive, including decisions made/actions taken directly by the Executive itself and those decisions/actions delegated to Chief Officers and individual Members of the Executive; and

- b) any functions which are not the responsibility of the Executive.
- (ii) The Scrutiny Committee may make reports or recommendations to either the Cabinet or to the County Council with respect to:
  - a) the discharge of any functions which are the responsibility of the Executive;
  - b) the discharge of any functions which are not the responsibility of the Executive; or
  - c) matters which affect Norfolk or its inhabitants.

### **3. Crime and disorder matters**

- 3.1 Section 19 of the Police and Justice Act 2006, as amended by section 126 of the Local Government and Public Involvement in Health Act 2007, requires every local authority to have a crime and disorder committee with the power to review and scrutinise, and make reports and recommendations, regarding decisions made or other action taken by the responsible authorities in connection with the discharge of their crime and disorder functions. For Norfolk, these “responsible authorities” are:
  - the County Council
  - District councils
  - Norfolk and Suffolk Community Rehabilitation Company
  - the Chief Constable for Norfolk Constabulary
  - Health – Clinical Commissioning Groups
  - Norfolk Fire and Rescue Service
- 3.2 At the County Council, the Scrutiny Committee will act as the designated Crime and Disorder Committee.
- 3.3 Section 126 of the Local Government and Public Involvement in Health Act 2007 provides for any Member to refer any local crime and disorder matter to the Crime and Disorder Committee and have it discussed at a meeting of the Committee. A “local crime and disorder matter” is defined as a matter concerning:
  - crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour and other behaviour adversely affecting the local environment), or
  - the misuse of drugs, alcohol and other substances,

which affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area.
- 3.4 Where the crime and disorder committee makes a report or recommendations in response to a CCfA, it must provide a copy to any of the responsible authorities for crime and disorder (see section 3.1.above) or any other individuals or bodies as it considers appropriate. Any organisation or individual who is provided with such a report or recommendations has a duty to:
  - consider the report or recommendations

- respond to the crime and disorder committee indicating what (if any) action it proposes to take
- have regard to the report or recommendations in exercising its functions

#### **4. Before making a Councillor Call for Action**

4.1 Guidance makes it clear that CCfA's are intended as a last resort, to be used when all other means of resolving an issue have proved to be unsuccessful. As a minimum, it is expected that the Councillor concerned will have satisfied themselves that the issue is not an excluded matter (see section 5 below), and has approached at least the following to seek a resolution:

- any relevant local service manager
- any relevant partnership bodies or local groups
- the relevant Cabinet Member
- the relevant District Councillor(s)

#### **5. What a Councillor Call for Action should NOT be used for**

5.1 The following matters are “excluded matters” that cannot be the subject of a Community Call for Action:

- Any matter relating to a licensing or planning decision.
- A matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Commission for Local Administration in England – otherwise known as the Local Government Ombudsman).
- A matter which is vexatious, discriminatory or not reasonable to be on the agenda for, or discussed at, a meeting of the Scrutiny Committee.

5.2 However, a matter which consists of an allegation of systematic failure of an authority to discharge a function for which the authority is responsible may be referred to the Scrutiny Committee, notwithstanding the fact that the allegation specifies matters which are outlined in paragraph 5.1 above.

#### **6. The CCfA process at Norfolk County Council**

6.1 The same process will apply irrespective of whether the CCfA concerns a “local government matter” or “a crime and disorder matter”.

6.2 Notice of a CCfA should be sent in writing to the Head of Governance and Regulatory Services. Such notice should include the following information as a minimum:

- A summary of the issue involved
- What outcomes the local Member is hoping to achieve



- Action already taken, including details of people and organisations already contacted and why this has failed to resolve the issue
- Key dates or timescales, if relevant

The CCfA should be accompanied by any other supporting information, having regard to confidentiality and Freedom of Information issues.

- 6.3 On receipt of a CCfA, the Assistant Director of Governance (Democratic and Regulatory Services )will, as appropriate:
- Establish that the subject of the CCfA is not an excluded matter
  - Advise the Member concerned of other possible means of resolving the issue or other information requirements
- 6.4 Legitimate CCfA's will be referred by the Assistant Director of Governance (Democratic and Regulatory Services )to the Chair of the Scrutiny Committee and the supporting officer(s). Where the Assistant Director of Governance (Democratic and Regulatory Services )considers the matter to be urgent, it will also be placed on the agenda for the next meeting of that committee. If the matter is not considered urgent, it will be placed on the scrutiny work programme for the next meeting so a way forward and timescale for its consideration can be agreed by the full committee.
- 6.5 Whilst it is not a requirement, it is expected that the Member making the CCfA will attend the committee meeting to introduce the issue and answer any questions.
- 6.6 Where a CCfA is listed as a separate agenda item on a committee's agenda, it will be considered as a scrutiny item and the usual processes will be followed e.g. the relevant Cabinet Member(s) and any other internal or external stakeholders will be invited, and reports requested, as appropriate.
- 6.7 Copies of any reports or recommendations made by the Scrutiny Committee in response to a CCfA must be provided to the Member who initiated it. Similarly, where a Committee decides not to make a report or recommendations, it must notify the Member concerned of its decision and the reasons for it.

## **7. Involvement of external partners**

- 7.1 The 2007 Act gives the Scrutiny Committee of the County Council greater powers to scrutinise services outside of the Council and to require a response from the providers of those services (see sections 1.4 and 3.1 above). It is important that this scrutiny takes place in an atmosphere of informed trust and co-operation.

## **Part 3E: Members protocol for contracts and purchasing**

### **1     Introduction**

- 1.1 The County Council procures goods, services and works on a large scale, via tendering exercises or negotiations, and subsequently manages the resultant contracts and takes decisions around contract extension or termination.
- 1.2 The purpose of this protocol is to define the role of Members of the County Council in the taking of these decisions and to assist them in the exercise of that role.

### **2     Principles**

- 2.1 This protocol is based upon the following principles:
- protecting the personal integrity of Council Members and officers;
  - ensuring the financial and probity interests of the Council are protected;
  - ensuring decisions are based on complete and sound information and advice from appropriate professional staff;
  - ensuring decisions are in accordance with the Council's agreed processes and standards;
  - protecting the Council, its Members and officers from undue pressure or inappropriate contact from contractors and parties with a commercial interest in a transaction; and
  - ensuring openness and accountability in decisions relating to contracts and purchasing.
- 2.2 Against this background the protocol covers the following:
- 1 the overall role of Members in such decisions
  - 2 Contract Standing Orders
  - 3 Code of Conduct
  - 4 gifts and hospitality
  - 5 lobbying
  - 6 the related transactions form
  - 7 confidentiality

### **3     The Overall Role of Members in such Decisions**

- 3.1 The County Council's governance arrangements provide for:
1. The full County Council to adopt Standing Orders for the letting of contracts.

2. The Leader and Executive to take decisions relating to major contracts, in particular major partnership working.
3. But otherwise, for decisions to be taken by Chief Officers under Contract Standing Orders, subject to the involvement of the Executive in certain defined areas.

#### 4. Contract Standing Orders

- 4.1 The County Council has adopted Contract Standing Orders, the purpose of which is to govern the letting of Council contracts, and in particular to ensure that contracts are let competitively, and, in a way, which not only ensures that the Council secures Best Value but also that the probity interests of the Council are protected. These Standing Orders generally place the responsibility for procurement with Chief Officers. The Executive may be involved in authorising procurement exercises in accordance with Contract Standing Orders, in the following circumstances:

- a) Authorising exemptions not otherwise covered in the Standing Orders.
- b) Receiving reports where Chief Officers have applied certain of the exemptions.

#### 5. Code of Conduct

- 5.1 Councillors are bound by the Members' Code of Conduct and Chapter 7 of the Localism Act 2011, the requirements of which include:

- a. The registration of a range of interests including: -

- (a) employment or office
- (b) contracts
- (c) land
- (d) leases
- (e) political sponsorship
- (f) shareholdings

#### 6. Gifts and Hospitality Code of Conduct

- 6.1 The County Council has also adopted a Code of Conduct which places major restraints on the extent to which Members may receive gifts and hospitality. The key points of this Code are that:

- a. Offers of gifts and hospitality can only be accepted in very limited circumstances and should be registered with the County Council. In particular, the Code contains the general principles that a Councillor should never accept gifts or hospitality as an inducement or reward for anything done by them nor should they be accepted if it places a Councillor under an improper obligation.

- b. Offers should be refused where they: -

- i. Appear to be an inducement or reward for something expected from the Councillor; or

- ii. Are from commercial organisations or private individuals over £25.00 in value.

## 7. Lobbying

- 7.1 It is a well-established part of the political process that those who may be affected by a proposed decision of a Local Authority should seek to influence that decision. In many cases, they will approach their local Councillor or Members of the relevant decision-making bodies. However, it is essential that the process of lobbying does not undermine the decision-making processes and that Councillors are seen to determine matters on their merit.
- 7.2 As a result, where a Councillor is likely to become involved in a decision on a particular procurement they should make it clear, in any situation where they are approached by or on behalf of anyone interested in procuring the contract, not to enter into any discussion. Rather, potential Contractors must be directed to the relevant Chief Officer.
- 7.3 In addition, Councillors should not seek to influence the procurement decisions of officers, but it is entirely appropriate for Members to understand how and why decisions were taken.

## 8. The Related Transactions Form

- 8.1 The Code of Practice on Local Authority Accounting requires that the County Council must disclose in its annual accounts details of all transactions between the Council and individual Councillors, members of their close families or of the same household, and companies, partnerships, trusts or other entities in which they or their close family or members of their household have a controlling interest. To facilitate this process, the Executive Director of Commercial Services and Finance writes annually to all Councillors asking them to disclose any relevant transactions.

## 9. Confidentiality

- 9.1 Commercial transactions, by their nature, involve the commercial activities of one or more party other than the Council. They will involve the disclosure to the Council of matters of commercial confidentiality, such as Business Plans, and pricing structure, disclosure of which to a competitor or to the market could be very detrimental. The maintenance of confidentiality is essential both to maintain the integrity of a competitive procurement process and to ensure that those who have commercial dealings with the Council know that they can rely upon the Council to protect their commercial secrets and are therefore able to be open with the Council.
- 9.2 On the other hand, it is important that Councillors should have access to relevant information necessary to enable them to understand the business of the Council and to ensure that it is being conducted in accordance with the policies and budgets of the Council and to the highest standards of propriety. The Council therefore ensures all Councillors have the information necessary to enable them to perform their duties, but the corollary to that is that Councillors should only request access to confidential information where there are clear reasons why they need access to the information for the performance of their obligations and should ensure that they do not disclose

confidential information to unauthorised persons or organisations.

- 9.3 If an officer is concerned that a Councillor's request for access to confidential information may be inappropriate then under the terms of the Access to Information Procedure Rules adopted by the Council, it must be referred to the Monitoring Officer for advice. If it is then still not considered appropriate to release the information and the Councillor disagrees, the matter will be referred to the Head of Paid Service who will consult the relevant Group Leader before making a decision.

## **Part 4: Decision Making**

### **4.1 Responsibility for Decision Making**

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

### **4.2 Principles of Decision Making**

These principles will underpin the way the Council makes its decisions: -

- (1) Actions agreed will be in proportion with what the Council wants to achieve.
- (2) Appropriate consultation will have been carried out and decisions will take account of its results and any professional advice given by officers.
- (3) Decisions will reflect the spirit and requirements of Equalities and Human Rights legislation.
- (4) The presumption that all decisions made by the Council, the Executive and Committees should be made in public with only those issues that need to be exempt by virtue of the Access to Information Rules will be taken in private.
- (5) Decisions will be clear about what they aim to achieve and the results that can be expected.

In addition, in the case of all decisions taken by the Executive or a Committee or individual member of the Executive, a statement will be published which includes details of the options considered and the reasons for the decision.

### **4.3 Types of Decision**

- (1) Decisions reserved to full Council.

Decisions relating to the functions listed in Part 4.2 will be made by the full Council and not delegated.

- (2) Key decisions

- (i) A decision taker may only make a key decision in accordance with the requirements of the Access to Information Procedure Rules set out in Part 11A.

- (ii) A key decision is defined as either:

- (a) any decision in relation to an executive function which results in the local authority incurring expenditure which is, or the making of savings which are, in excess of £1.25m having regard to the local authority's budget for the service or function to which a decision relates; or

- (b) any decision which is likely to have a significant impact on communities living or working in an area comprising two or more electoral divisions.

For this purpose, the Council has agreed that a key decision is any decision which:

- recommends a budget to the full Council
- proposes an amendment to the Council's Policy Framework (as defined in Part 5)
- involves the expenditure or savings of more than £1.25M over one accounting year unless expressly provided for in the adopted budget or Policy Framework
- involves the acquisition or disposal of land and buildings or any interest in land and buildings in excess of the value of £1.25M unless covered by a specific item in the budget
- involves a budget virement of funding in excess of the virement limits set out in Appendix 15 (financial regulations) of this Constitution
- recommends the promotion or amendment of local legislation
- involves significant public, private and voluntary partnership working in Norfolk

Together with any other decision which the Monitoring Officer, in consultation with the Leader and Head of Paid Service, considers to be a key decision within the Regulations.

#### **4.4 Procedures of the Full Council**

Subject to Part 10.8 the Council meeting will follow the Council Procedure Rules set out in Appendix 7 when considering any matter.

#### **4.5 Procedures of the Executive**

Subject to Part 10.8 the Executive will follow the Cabinet Procedure Rules set out in Part 6 when considering any matter.

#### **4.6 Procedures of the Scrutiny Committee**

The Scrutiny Committee will follow the Scrutiny Procedure Rules set out in Part 7 when considering any matter.

#### **4.7 Procedures of Other Committees and Sub-committees Established by the Council**

Subject to Part 10.8 other Council committees and sub-committees will follow the Committee Procedure Rules set out in Part 8B and (so far as relevant to their responsibilities) will comply with the provisions of the Code of Best Practice for Planning Procedures set out in Part 11E and the procedures for Public Speaking at Committees in Part 2A.

#### **4.8 Decision Making by Council Bodies Acting as Tribunals**

The Council, a Committee, a Councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the Human Rights Act 1998.



## **Part 5 – The Full Council**

### **5.1.1 Meanings**

#### **i. Policy Framework**

This means:

- a) Norfolk County Council Strategy
- b) Annual investment and treasury management strategy
- c) Children and young people's strategy
- d) Adult social care strategy
- e) Local Transport Plan
- f) Norfolk County Council Waste strategy and policies
- g) Minerals and Waste development framework
- h) Fire and Rescue Integrated Risk Management Plan as part of the Crime and Disorder Reduction Strategy
- i) Youth Justice Plan
- j) Strategic Property Asset Management Framework
- k) Environmental Policy

The Policy Framework to be reviewed annually by the Corporate Select Committee to ensure the list of items remains appropriate.

#### **ii. The Budget**

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

### **5.2 Functions of the Full Council**

The full Council will exercise the following functions:

- i. adopt and change the Constitution (except that minor changes and corrections may be made by the Monitoring Officer in accordance with any powers delegated to them);
- ii. approve the annual Council Budget

- iii. set the limits for virement or other Budget changes by the Leader, the Cabinet, Cabinet Members, Committees or officers
- iv. set the limits defining key financial decisions
- v. approve the Policy Framework and the strategies and policies that sit within it
- vi. determine any decision referred to it by the Scrutiny Committee which is contrary or not wholly in accordance with the Council's Budget or Policy Framework
- vii. appoint and remove the Leader of the Council
- viii. approve the Terms of Reference for Committees, deciding on their composition, and making appointments to them
- ix. appoint the Chair and Vice Chairs of Committees
- x. appoint representatives to outside bodies, unless the appointment is an executive function or has been delegated by the Council
- xi. adopt a Members' Scheme of Allowance and Code of Conduct
- xii. confirm the appointment of the Head of Paid Service
- xiii. confirm the appointment of the Returning Officer
- xiv. make, amend, revoke, re-enact or adopt byelaws, and promoting or opposing the making of local legislation or personal Bills
- xv. all other matter which, by law, must be reserved to Council.

### **5.3 Council meetings**

There are three types of Council meeting:

- i. the annual meeting
- ii. ordinary meetings
- iii. extraordinary meetings

and they will be called and conducted in accordance with the Council Procedure Rules set out in Appendix 8.

### **5.4 Responsibility for Functions**

The Council discharges other functions through committees and officers. Appendices 2, 2A and 5 set out the committees and officers who discharge those functions. Those Appendices set out all the functions of the Council that are not the responsibility of the Leader and Cabinet.

## **Part 5A: Council procedure rules**

1. Annual general meeting of the Council
2. Ordinary meetings of the Council
3. Extraordinary meetings
4. Time, place and duration of meetings
5. Notice of and summons to meetings
6. Chair of meeting
7. Quorum
8. Questions by Members
9. Motions on notice
10. Motions without notice
11. Rules of debate
12. Previous decisions and motions
13. Voting
14. Minutes
15. Record of attendance
16. Exclusion of public
17. Members' conduct
18. Disturbance by public
19. Suspension and amendment of Council Procedure Rules
20. Interpretation of Rules of Procedures

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

### **2.1 Timing and business**

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

1.1.2 The annual meeting will, in the following order:

- (i) elect a person to preside if the outgoing Chair of Council is not present;
- (ii) elect a chair of Council;
- (iii) approve the minutes of the last meeting;
- (iv) elect a vice chair of Council;
- (v) receive any announcements from the chair;
- (vi) receive any declarations of interest from Members;
- (vii) appoint a Scrutiny Committee, three Select Committees, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions and determine their size and membership and any changes to their terms of reference;
- (viii) appoint the chairs and vice-chairs of the Scrutiny Committee, the three Select Committees, Audit Committee, Standards Committee, Employment Committee, Pensions Committee and Planning Regulatory Committee;
- (ix) make appointments to outside bodies except to the extent that this is the responsibility of the Executive or has been delegated by the Council;
- (x) deal with any business which is required by law to be done;
- (xi) consider any business set out in the notice convening the meeting;
- (xii) consider motions under Rule 9 of these Rules;
- (xiii) answer questions under Rule 8.3 of these Rules;
- (xiv) consider any other business specified in the summons to the meeting;
- (xv) following County Council elections, the annual meeting will after item vi) and item vii) elect a Leader of the Council.

**2.2** Business falling under Rule 1.1 (i), (ii) and (iii) cannot be displaced, but subject to this, the order of business may be varied under the following circumstances:

- (a) at the discretion of the chair
- (b) by resolution passed on a motion (which need not be in writing) duly moved and seconded, which will be moved and put without discussion.

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

#### **3.1 Ordinary meetings of the Council will, in the following order:**

- (i) elect a person to preside if the Chair and Vice Chair are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any announcements from the Chair;
- (iv) receive any declarations of interest from Members;
- (v) deal with any business (if any) remaining from the last Council meeting;
- (vi) deal with Member questions to the Leader of the Council (maximum of 15 minutes to be allowed for this item);
- (vii) consider motions under Rule 9 of these Rules;
- (viii) receive reports and recommendations from the Scrutiny Committee and from the Norfolk Health Overview and Scrutiny Committee and on intentions to make referrals to the Secretary of State;
- (ix) receive reports from the Select Committees
- (x) receive reports about the business of joint arrangements and external organisations;
- (xi) answer questions under Rule 8.3 of these Rules;
- (xii) receive reports and recommendations of the Cabinet and other committees and deal with Member questions to Cabinet Members;
- (xiii) consider any other business specified in the summons to the meeting;

#### **3.2 Business falling under items (i) and (ii) cannot be displaced, but subject to this, the order of business may be varied under the following circumstances:**

- (a) by the Chair at their discretion
- (b) by resolution passed on a motion (which need not be in writing) duly moved and seconded, which will be moved and put without discussion.

### **4. Extraordinary meetings**

#### **4.1 Calling extraordinary meetings**

##### **3.1.1 Those listed below may request the Head of Paid Service to call additional Council**

meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Chair of the Council;
- (iii) the Monitoring Officer; and
- (iv) any five Members of the Council if they have signed a requisition presented to the Chair of the Council and they have refused to call a meeting or have failed to call a meeting within seven days of the presentation of the requisition.

### **3.2 Business**

- 3.2.1 The business conducted at extraordinary meetings will be restricted to the business specified in the summons to the meeting.

### **5. Time and place and duration of meetings**

- (i) Meetings of the Council will normally take place in the Council Chamber at County Hall in Norwich, commencing at 10.00 a.m. The Head of Paid Service may vary the time and place of the meeting if they consider it necessary after consultation with the Leaders of the political groups.
- (ii) A meeting will be held in February each year to determine the Council's budget. The business to be considered at the budget meeting in February shall be limited to the budget, subject to the Chair having discretion to accept additional items other than those relating to the budget, but only in exceptional or urgent circumstances.
- (iii) Meetings of the Council will not extend beyond 3 hours unless this is extended in accordance with Rule 10 (1) (n).

### **6. Notice and summons of meetings**

- 5.1 The Assistant Director of Governance (Democratic and Regulatory Services) will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting of the full Council, the Head of Paid Service will send a summons signed by them every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted.

### **7. Chair of meeting**

- 6.1 The person presiding at the meeting may exercise any power or duty of the chair.

### **8. Quorum**

- 7.1 The quorum of a meeting of the Council will be 21 members. During any meeting if the Chair 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 Chair. If the Chair does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **9. Questions by Members**

### **9.1 Questions without notice**

- 8.1.1 A Member of the Council may at a full Council meeting ask the Leader or the Cabinet Member any question without notice concerning an item within the report of the Cabinet or committee, when that item is under consideration by the Council. A maximum overall period of 30 minutes shall be allowed for questions to Cabinet Members, with a maximum of 5 minutes for questions to an individual Cabinet Member, both periods to be extendable at the discretion of the Chair. Questions to Cabinet Members can relate to anything within the remit of the Cabinet Member's portfolio and are not limited to items in the Cabinet reports.

### **8.2 Questions to the Leader of the Council**

- 8.2.1 At each Council meeting, there shall be a 15-minute Leader's Question Time session during which Members may ask questions that do not relate to items covered in the reports from Cabinet. Questions shall not require prior notice. The Leader may ask Cabinet Members to answer questions where appropriate.

### **8.3 Questions on notice**

- 8.3.1 A Member of the Council may ask:

- the Chair;
- the Leader or relevant Cabinet Member;
- the chair of any committee

a question on any matter in relation to which the Council has powers or duties or which affects Norfolk.

### **8.4 Notice of questions**

- 8.4.1 A Member may only ask a question under Rule 8.3 if they have given at least 4 working days' notice of the question in writing to the Head of Governance and Regulatory Services. However, if a question relates to urgent matters and a Member has obtained the consent of the Chair of the Council, then the question may be asked provided that the content of the question is given to the Assistant Director of Governance (Democratic and Regulatory Services) by 9.30 a.m. on the day of the meeting.

### **8.5 Response**

- 8.5.1 Where the reply cannot conveniently be given orally, a written answer will be sent

to the questioner within 7 days of the meeting and a copy appended to the minutes.

- 8.5.2 If the Member who has given written notice of the question is not present when the question is to be put, that question may, with the consent of the Chair, be asked by any other Member present.

## **9 Motions on notice**

### **9.1 Notice**

- 9.1.1 Except for motions which can be moved without notice under Rule 10, notice of every motion must be given in writing, signed by the Member or Members of the Council giving the notice, and sent to the Democratic Services Support team at [committees@norfolk.gov.uk](mailto:committees@norfolk.gov.uk) not later than 7 working days before the date of the meeting. These will be available online with the agenda for public inspection.

### **9.2 Motion set out in agenda**

- 9.2.1 Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.
- 9.2.2 If a motion listed on the agenda is not moved either by the Member who gave notice or by another Member on their behalf, it will, unless postponed by the Council, be treated as withdrawn and should not be moved without fresh notice.

### **9.3 Scope**

- 9.3.1 Motions must be clear and concise to encourage debate on matters for which the Council has a responsibility, and which affect Norfolk and should not normally relate to matters which are the responsibility of Cabinet, or which the Council has delegated to a committee. The Assistant Director of Governance (Democratic and Regulatory Services) will reject a motion that is deemed not to be within this scope, after consultation with the Monitoring Officer.
- 9.3.2 If the subject matter of any Motion of which notice has been given comes within the remit of the Cabinet, or relevant Committee, it will be moved or seconded in formal terms only and therefore stand referred without discussion, unless following discussion with the Leader of the Council or the relevant Committee Chair, it is agreed by the Chair of the Council that the subject matter of the Motion may be discussed by Council to inform the decision maker's deliberations prior to referral.

## **10 Motions without notice**

- 10.1 The following motions may be moved without notice:
- (a) to appoint a chair of the meeting at which the motion is moved if the Chair or Vice-Chair is not present;
  - (b) in relation to the accuracy of the minutes;



- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or Member arising from an item on the summons for the meeting where such appointment is required;
- (f) to receive and adopt reports and recommendations of committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to extend the time limit for speeches;
- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) that the meeting continues beyond 3 hours in duration;
- (o) to suspend a particular council procedure rule;
- (p) to exclude the public and press in accordance with the Access to Information Rules;
- (q) to not hear further a Member named under Rule 17.3 or to exclude them from the meeting under Rule 17.4; and
- (r) to give the consent of the Council where its consent is required by this Constitution.

10.5 A motion by the Chair under paragraph (1)(p) of this Rule will take precedence over any other motion and will without the need of a seconder be put forthwith without discussion or question. Provided that after the withdrawal of the public pursuant to any such motion a Member may notwithstanding any other provision of these Rules, move that the public be re-admitted and upon that motion being seconded it may be discussed and voted upon.

## **11 Rules of debate**

### **11.5 No debate or vote until motion seconded**

11.1.1 No motion will be debated or voted upon after the mover has moved a proposal (other than a motion that the report of a committee or a recommendation within it be received and adopted) until the motion has been seconded.

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

- 11.2.1 Unless notice of the motion has already been given, the chair will require it to be written down and handed to them. The motion will be read out to the Council before any vote upon it is taken.

## **11.7 Secunder's speech**

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

## **11.8 Content and length of speeches**

- 11.4.1 Speeches must be directed to the question under discussion or to a personal explanation or point of order. The mover of a motion may speak for 5 minutes, and other speakers shall not exceed 5 minutes (in both cases unless the Chair gives consent for a longer speech), except at the budget meeting in February when the Leader of the Council and the leaders of the opposition groups will be entitled to speak for an additional specified time, as agreed in advance by the Chair.

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

- 11.5.1 A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except;
- (a) to speak once on an amendment moved by another Member;
  - (b) to move a further amendment if the motion has been amended since they last spoke;
  - (c) if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
  - (d) in exercise of a right of reply;
  - (e) on a point of order; and
  - (f) by way of personal explanation;
  - (g) to demand a recorded vote;
  - (h) to move the suspension of these procedural rules;

## **11.10 Amendments to motions**

- 11.6.1 An amendment to a motion must be relevant to the motion and will either be:
- (i) to leave out words;
  - (ii) to leave out words and insert or add others; or

(iii) to insert or add words;

As long as the effect of (i) to (iii) is not to negate the motion.

- 11.6.2 Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- 11.6.3 If an amendment is moved, the Chair will ask the proposer of the original motion if they are willing to alter their motion in accordance with the amendment. If they accept, the amendment becomes the substantive motion and is debated. If the proposer of the original motion is unwilling to alter their motion, the Chair will ask if there is a seconder for the amendment. If there is a seconder, the amendment will then be debated and voted upon.
- 11.6.4 If an amendment is not carried, other amendments to the original motion may be moved.
- 11.6.5 If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- 11.6.6 After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### **11.11 Alteration of motion**

- 11.7.1 A Member may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- 11.7.2 A Member may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- 11.7.3 Only alterations which could be made as an amendment may be made.

#### **11.12 Withdrawal of motion**

- 11.8.1 A Member may withdraw a motion which they have moved with the consent of the seconder. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### **11.13 Right of reply**

- 11.9.1 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.
- 11.9.2 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.
- 11.9.3 The mover of the amendment has no right of reply to the debate on their

amendment.

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

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to postpone consideration of the motion;
- (d) to proceed to the next business;
- (e) that the question be now put;
- (f) to adjourn a debate;
- (g) to adjourn a meeting;
- (h) that the meeting continues beyond 3 hours in duration;
- (i) to exclude the public and press in accordance with the Access to Information Rules; and
- (j) to not hear further a Member named under Rule 17.3 or to exclude Them from the meeting under Rule 17.4;
- (k) that the procedural rules be suspended;

#### **11.15 Closure motions**

11.11.1A Member may move, without comment, the following motions at the end of a speech of another Member:

- (i) that consideration of the motion be postponed;
- (ii) to proceed to the next business;
- (iii) that the question be now put;
- (iv) to adjourn a debate; or
- (v) to adjourn a meeting;

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

11.11.3 If a motion that the question be now put is seconded and the Chair thinks the item

has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed, they will give the mover of the original motion a right of reply before putting their motion to the vote.

11.11.4 If a motion to adjourn the debate or to adjourn the meeting or to postpone consideration of the motion is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

11.11.5 Provided that a second motion to the same effect under this section will not be moved in reference to the same motion or amendment within a period of 20 minutes unless it is moved by the Chair.

## **11.16 Point of order**

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

## **11.17 Personal explanation**

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

# **12 Previous decisions and motions**

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

12.1.1 A motion or amendment to rescind a decision made at a meeting of Council within the past seven months cannot be moved unless the notice of motion is signed by at least 21 Members.

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

12.2.2 A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past seven months cannot be moved unless the notice of motion or amendment is signed by at least 21 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for seven months.

# **13 Voting**

## **13.5 Majority**

- 13.1.1 Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the Council Chamber at the time the vote is taken.

### **13.6 Chair's casting vote**

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

### **13.7 Form of voting**

- 13.3.1 Voting will be by show of hands. If, in the opinion of the Chair, the result is uncertain they will call upon the Council to determine the question by recorded vote, in which case the names for and against the motion or amendment will be taken down in writing and entered in the minutes. Any Member may demand a recorded vote and if one quarter of those Members present when the roll is called signify their support by rising in their places, such a vote will be taken.
- 13.3.2 At the Budget meeting in February each year, all motions and amendments relating to budget decisions will be conducted by recorded vote and the minutes of the proceedings of the meeting will record the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

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

- 13.4.1 Where any Member requests it immediately after a 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.

### **13.5 Voting on appointments**

- 13.5.1 If there is only one nomination for a single position to be filled, the person nominated will fill the position only if a greater number of Members vote for the nominee than against. The Chair may at their discretion call for a vote: -
- a) by each Member when called upon announcing whether they are for or against the appointment of the nominee;
- 13.5.2 If there are two or more people nominated for a single position to be filled, the person having the greatest number of votes will fill the position. The Chair may at their discretion call for a vote:
- a) by each Member when called upon announcing the name of the person for whom they vote; or
- 13.5.3 Where more than one position or vacancy is involved, voting papers will be distributed and a vote will be taken –
- a) By each voter writing on their voting paper the names of no greater number of the persons nominated than would be required to fill the positions or vacancies under consideration;

- b) the names of such persons having the greatest number of votes in descending order as are required to fill the positions or vacancies under consideration will thereupon be declared by the Chair to be the names of the persons appointed to fill the said positions or vacancies.

provided that in the event of there being an equality of votes for the only position or vacancy or the last position or vacancy the vote will be taken again between such persons having equal votes. Where the number of persons nominated does not exceed the number of positions or vacancies by more than one, the appointment may be determined on a motion.

N.B. Generally, appointments made by the Council will be on the basis of Group nominations.

- 13.5.3 Appointment of the Chairs and Vice-Chairs of Committees may be made through the approval of a slate of nominations.

## **14 Minutes**

### **14.5 Signing the minutes**

- 14.1.1 The Chair will sign the minutes of the proceedings at the next suitable meeting. The only part of the minutes that can be discussed is their accuracy and any question as to their accuracy must be raised by motion.

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

- 14.2.1 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 the 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.

## **15 Record of attendance**

- 15.1 Every Member attending a meeting of the Council will, with a view to securing the recording of their attendance at a meeting of the Council, answer the roll call at the opening of the proceedings, or otherwise indicate their presence as required by the Chair.
- 15.2 If any Member arrives after the roll has been called, they must intimate their presence to the Head of Governance and Regulatory Services.
- 15.3 If any Member intends to leave a meeting and not to return, they shall inform the Chair accordingly and it will be recorded in the minutes.

## **16 Exclusion of the public**

- 16.1 Members of the public and press may be excluded either in accordance with the Access to Information Rules at Part 11A or Rule 18 of these Procedure Rules.

## **17 Members' conduct**

### **17.5 Speaking**

- 17.1.1 When a Member speaks at full Council, they must address the meeting through the Chair but may choose to either stand or remain seated.

### **17.6 Chair standing**

- 17.2 When the Chair stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

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

- 17.3 1 If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

### **17.8 Member to leave the meeting**

- 17.4.1 If the Member continues to behave improperly after such a motion is carried, the Chair may adjourn the meeting for a specified period or move that the Member leaves the meeting. If seconded, the motion will be voted on without discussion. If the Member continues to behave improperly, the Chair may give such direction as they consider appropriate for the removal of the Member and the restoration of order.

### **17.9 General disturbance**

- 17.5.1 If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think is necessary.

## **18 Disturbance by the public**

### **18.5 Removal of member of the public**

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

### **18.6 Clearance of part of the meeting room**



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

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

### **19.1 Suspension**

- (i) All of these Rules, except Rules 13.4 and 14.2, 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. A motion to suspend the Rules must specify the Rule to be suspended and must be moved in terms limited to an explanation of the reasons for the suspension. It will be seconded in formal terms only and will be put to the Council without debate.
- (ii) Any motion to add to, vary or revoke these Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council, except where it is moved as part of the report of the Cabinet.

## **20. Interpretation of rules of procedure**

- 20.1 The ruling of the Chair as to the construction or application of these Rules or as to any proceedings of the Council, will be final for the purposes of the meeting at which it is given.

## **Part 6 – The Executive (Cabinet)**

### **Summary of Executive Arrangements**

The Council's Executive arrangements comprise these parts of this Constitution:

- The Executive (Cabinet), Cabinet Procedure Rules and delegations to members of the Executive (part 5)
- Overview and Scrutiny Arrangements (part 6)
- Joint Arrangements (Part 9)
- Decision Making (Part 4)
- Access to Information (Part 11A)
- Scheme of Delegated powers to Officers (Part 10B)

This Part of the Constitution records the arrangements made by the Leader for the allocation of responsibilities and the discharge of executive functions by them, Cabinet Members and officers. Wherever arrangements are not specifically made for the discharge of executive functions by Cabinet Members or officers, those functions remain with the Leader. The Leader may make new arrangements for the discharge of executive functions by Cabinet Members or officers at any time on either a temporary or permanent basis

#### **6.1 Role**

The Executive will carry out all the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

#### **6.2 Form and Composition**

The Executive will consist of the Leader together with at least 2, but not more than 9, Councillors appointed to the Executive by the Leader.

#### **6.3 Leader**

- i. The Leader will be a Councillor elected to the position of Leader by the Council. The Leader holds office until the next election of all Members of the Council unless they:
  - 
  - a) resign from the office; or
  - b) are no longer a Councillor; or
  - c) are removed from office by resolution of the Council following a recommendation to that effect by the Standards Committee or following a change in political control of the Council; or
  - d) are removed from office by resolution of the Council following their removal from the position of Leader of their Group.
- ii. In the period between a Council election and the date when a new Leader is

elected, decisions which are the responsibility of the Leader and Cabinet or individual Members of the Cabinet will be taken by the Head of Paid Service in consultation with: -

- a) the Leader of the Group with an overall majority of seats; or
- b) in the event of there being no Group with an overall majority of seats, with all Group Leaders.

#### **6.4 Deputy Leader**

- i. The Leader will appoint one of the Members of the Cabinet as their Deputy. The Deputy Leader may take day to day decisions on behalf of the Leader during their absence as notified to the Monitoring Officer (or if the absence is unforeseen, as confirmed by the Head of Paid Service). The Deputy Leader may not vary the arrangements made by the Leader under Parts 7.4 to 7.8 inclusive, or alter any arrangements made by the Leader under this Constitution for the exercise of executive functions, except for: -
  - a) changes consequent upon the dismissal of a Leader during the period until a new Leader is elected; or
  - b) where, in the opinion of the Head of Paid Service, the Leader is incapacitated for such a period of time that the efficient operation of the Council would be significantly impaired.

#### **6.5 Other Executive Members**

- i. Other executive Members must be elected Members of the Council appointed to the Cabinet by the Leader. They hold office for a period determined by the Leader, which must terminate no later than the next election of all Members of the Council, unless:
  - a) they resign from office; or
  - b) they are no longer Councillors; or
  - c) they are removed from office by the Leader who must give written notice of any removal to the Member concerned and the Head of Paid Service. The removal will take effect upon receipt of the notice by the Head of Paid Service; or
  - d) the Council removes them from office by resolution following a recommendation to that effect by the Standards Committee.

#### **6.6 Proceedings of the Cabinet**

Proceedings of the Cabinet will take place in accordance with the Cabinet Procedure Rules set out in Appendix 9.

#### **6.7 Responsibility for Functions**

The exercise of functions which are the responsibility of the Executive will be determined by the Leader. In this respect, the Leader may arrange for functions to be exercised by individual Members of the executive (including the Leader) and officers or joint committees.

The Leader will maintain lists as set out in Part 6A, Part 10B and Part 9 setting out which individual Members of the executive, officers or joint arrangements are responsible for the exercise of particular executive functions.

The Leader will also designate the general areas of responsibility of the individual Members of the Cabinet and list these responsibilities in Part 6A.

## **6.8 Deputy Cabinet Members**

The Leader may appoint non-executive Members as Deputy Cabinet Members to advise and assist Cabinet Members and who may deputise for the relevant Cabinet Member in their absence in accordance with the Cabinet Procedure Rules as set out in Part 6B. Such Members may not discharge any function given to the Cabinet Member and are not members of the Executive.

## **6.9 Terms of Reference of the Cabinet**

- i. The Leader has arranged for the Cabinet to exercise the following functions which are the responsibility of the Executive;
  - a) to exercise all the executive functions of the Council except to the extent that they are reserved to the full Council, exercisable by other Committees or exercisable by individual members of the Executive or Chief or other officers under delegated powers.
  - b) to prepare, for adoption by the Council, the budget and the plans which fall within the policy framework.
  - c) to make recommendations to the Council on matters reserved to the Council.
  - d) to exercise the following “local choice” function:
    - placing staff at the disposal of other authorities where the placement is in connection with functions exercised by the Executive
  - e) to establish appropriate arrangements for the delivery of cross-cutting/cross-departmental functions.
  - f) to receive reports and recommendations from the Scrutiny Committee and Select Committees.
- ii. The Leader will not arrange for the powers set out in paragraph 7.9 (i) above to be exercised otherwise than by the Cabinet without first consulting the Cabinet, except:

- a) in the case of urgency; or
  - b) in the case of the initial delegations set out in Parts 6A, Part 10B and Part 9 (first approved by the County Council at its meeting on 7 May 2019).
- iii. In the case of urgency, the Leader may exercise the powers set out in paragraph (i) above subject to compliance with the Call-In Procedure, the Budget and Policy Framework Procedure Rules and the Access to Information Procedure Rules.
- iv. In the case of urgency, the Head of Paid Service may, in the absence of the Leader and Deputy Leader, exercise the powers set out in paragraph 7.9(i). above, subject:
- a) to having first consulted the relevant Cabinet Member or, in their absence, the relevant Deputy Cabinet Member, and
  - b) to compliance with the Call-in Procedures, the Budget and Policy Framework Procedure Rules and the Access to Information Procedure Rules.

#### **6.10 Details of Cabinet Members**

Cabinet member	Portfolio	Contact Details
<b>Andrew Proctor</b>  <b>Leader</b> Governance and Strategy	Democratic Services HR Communications Governance Intelligence and Analytics Strategy Business continuity Information Governance Business -Support/Systems & Projects nplaw	<a href="mailto:andrew.proctor.cllr@norfolk.gov.uk">andrew.proctor.cllr@norfolk.gov.uk</a>
<b>Graham Plant</b>  <b>Deputy Leader</b> Growing the Economy	Promoting economic growth and enterprise Removing barriers to growth Inward investment Supporting the Council's role on the Local Enterprise Partnership (NALEP) Unemployment issues Oversight of Norfolk Infrastructure Fund and Norfolk Development Company Promoting the rural economy	<a href="mailto:graham.plant.cllr@norfolk.gov.uk">graham.plant.cllr@norfolk.gov.uk</a>
<b>Bill Borrett</b>  Adult Social Care, Public Health and Prevention	Adult social care Support for carers Protection for vulnerable adults Supporting people Public Health, including Drug and Alcohol Commissioning, Health and equalities strategies	<a href="mailto:bill.borrett.cllr@norfolk.gov.uk">bill.borrett.cllr@norfolk.gov.uk</a>

<b>Margaret Dewsbury</b>  Communities and Partnerships	Library and Information Service Trading Standards Fire and Rescue Emergency planning and community resilience Customer Service operations County archives/Norfolk Record Office Museums Service Arts Service Adult Education Active Norfolk Armed Forces Covenant Equality & Diversity	<a href="mailto:margaret.dewsbury.cllr@norfolk.gov.uk">margaret.dewsbury.cllr@norfolk.gov.uk</a>
John Fisher  Children's Services	Early years and child care School improvement Additional educational needs Child protection Children and young people in care Fostering and adoption Youth offending Prevent agenda	<a href="mailto:john.fisher.cllr@norfolk.gov.uk">john.fisher.cllr@norfolk.gov.uk</a>
<b>Tom FitzPatrick</b>  Innovation, Transformation and Performance	Better Broadband for Norfolk Digital experience (website) Customer systems and experience Performance reporting Digital Norfolk	<a href="mailto:tom.fitzpatrick.cllr@norfolk.gov.uk">tom.fitzpatrick.cllr@norfolk.gov.uk</a>
<b>Andy Grant</b>  Environment and Waste	Climate Change Waste Management and Recycling Flood and Water Management Ecology and Arboriculture	<a href="mailto:andy.grant.cllr@norfolk.gov.uk">andy.grant.cllr@norfolk.gov.uk</a>

	Countryside Access Archaeology, Heritage and Landscape Climate Change, mitigation and adaptation	
<b>Andrew Jamieson</b>  Finance	Budget Planning Audit Medium term Financial Strategy	<a href="mailto:andrew.jamieson.cllr@norfolk.gov.uk">andrew.jamieson.cllr@norfolk.gov.uk</a>
<b>Greg Peck</b>  Commercial Services and Asset Management	Property and asset management County Farms Scottow Enterprise Park NORSE Hethel Innovation Ltd Gypsy and Roma Travellers Service	<a href="mailto:greg.peck.cllr@norfolk.gov.uk">greg.peck.cllr@norfolk.gov.uk</a>
<b>Martin Wilby</b>  Highways, Infrastructure and Transport	Planning and Development Strategy and Management. Transport Strategy/Highways Network/Passenger Transport Flood and Water Management	<a href="mailto:martin.wilby.cllr@norfolk.gov.uk">martin.wilby.cllr@norfolk.gov.uk</a>



## **Part 6A: Delegations to Members of the Executive**

This sets out the general areas of responsibility of each member of the Cabinet and those functions of the Executive which are carried by a Committee or individual member of the Executive.

### **1. Individual areas of responsibility**

- 1.1 The Leader has allocated a “portfolio” to each Cabinet Member and delegated to each “Portfolio Holder” responsibility for the discharge of functions set out below:

Leader, and Governance & Strategy  
Deputy Leader and Growing the Economy  
Cabinet Member for Highways, Infrastructure & Transport  
Cabinet Member for Environment and Waste  
Cabinet Member for Adult Care, Public Health and Prevention  
Cabinet Member for Finance  
Cabinet Member for Communities and Partnerships  
Cabinet Member for Children’s Services  
Cabinet Member for Commercial Services and Asset Management  
Cabinet Member for Innovation, Transformation and Performance

- 1.2 All Cabinet Members have the following delegations in relation to their portfolios and the service areas for which they are responsible:

- a) To exercise the Executive powers and duties of the Council for strategic development, policy direction, partnership working, key decisions, programme and performance management, in accordance with the Council’s procedure rules, for their portfolio areas.
- b) To be responsible for ensuring successful delivery of business transformation in relation to their portfolio areas
- c) To request the relevant Select Committee to review changes to policy within these service areas
- d) To make decisions on actions relating to contracts including:
  - i. Awarding, assigning and terminating contracts over £1.25m
  - ii. Waiving or granting exemptions to Contract regulations where contracts are over £1.25m

### **2. Delegations to Committees and Individual Members of the Executive**

Pursuant to the power contained in Part 6.7 the Leader has determined that the following functions of the Executive be exercised in the following ways:

- (a) by a Committee (the Planning and Highways Delegations Committee) comprising of the Deputy Leader and the Cabinet Members for Highways, Transport & Infrastructure, Environment and Waste. This Committee will exercise the following powers:
  - (i) as County planning authority, or as Minerals and Waste planning authority, in responding to consultations (including whether to mount a legal challenge to a decision) by District Councils on major planning applications or to equivalent

proposals, including nationally significant infrastructure projects & offshore proposals by other organisations;

- (ii) as highway authority, where the local Member disagrees with the proposal from the Executive Director of Community & Environmental Services to issue a recommendation of refusal on highway grounds;
- (iii) as County planning authority, or as minerals and waste planning authority, in responding to District Councils on local plans at the various stages of consultation;
- (iv) to comment on the planning policy documents of other bodies including the Marine Management Organisation;
- (v) In the case of urgency, the County Council's response will be determined by the relevant Cabinet Member.

Except in the case of urgency, these powers will be exercised in consultation with a non-voting panel of representatives of the Planning Regulatory Committee, comprising the Chair and Vice-Chair of the Committee and the other group spokespersons.

In the event that the Cabinet Members cannot agree a resolution, the County Council's response will be determined by the Leader.

(b) by the Leader

- (i) making and revoking appointments to any office or outside body where the appointments are in connection with functions exercised by the Executive
- (ii) giving consent to appointments to Joint Committees which are made by the full Council

In any case where the appointment will include Members from the Opposition Groups, the Leader will first consult with the Leaders of those groups before making the appointments.

(c) by the relevant Cabinet Member(s) responsible for Highways, Transport and Infrastructure

To consider objections to the following Orders and proposals where either the local Member does not agree, or the Executive Director of Community & Environmental Services considers the scheme is contentious:

- (i) Traffic Regulation Orders, including experimental orders
- (ii) Traffic calming measures
- (iii) Footway conversion schemes
- (iv) Speed limits.

In respect of the route hierarchy and in conjunction with the Executive Director of Community & Environmental Services to exercise discretion in local signing at those sites where concern has been expressed.

(d) by the relevant Cabinet Member(s) responsible for Commercial Services and Asset Management

- (i) To agree property transactions involving individual acquisitions and disposals of land, buildings or other property interests where the consideration is between over £250,000 and up to and including £1.25M.
- (ii) To authorise the making of compulsory purchase orders in consultation with the relevant Cabinet Member.

## **Part 6B: Cabinet Procedure Rules**

### **1. Meetings of the Cabinet**

- 1.1 Meetings of the Cabinet will be held on such dates and at such times and venues as the Leader will decide.
- 1.2 The Assistant Director of Governance (Democratic and Regulatory Services) will summon all Members of the Cabinet to meetings by sending an agenda and accompanying papers to all Members of the Cabinet. The agenda and papers will normally be sent out at least five clear working days before the meeting. The agenda and papers will be sent at the same time to all other Members of the Council.

### **2. Agendas**

- 2.1 The agenda for each meeting of the Cabinet will comprise:
    - (a) Apologies for absence
    - (b) the minutes of the previous meeting for approval and signing
    - (c) declarations of interest
    - (d) matters referred to Cabinet by the Scrutiny Committee, Select Committees or by full Council
    - (e) public question time
    - (f) any local Member issues/questions raised by Members
    - (g) any non-local Member issues/questions raised by Members (to be taken at the Leaders discretion)
    - (h) issues and reports brought forward by the relevant Cabinet Member or Chief Officer
    - (i) any report by the Head of Paid Service, Director of Finance and Commercial Services or Monitoring Officer.
    - (j) such other items as the Leader decides
  - 2.2 The Leader may decide that there are special circumstances that justify an item of business, not included on the agenda, being considered as a matter of urgency. They must state these reasons at the meeting and they must be recorded in the minutes.
- ### **3. Quorum**
- 3.1 The quorum for a meeting of the Cabinet is the Leader (or the Deputy Leader in their absence) and five other Members.

#### **4. Record of Attendance**

- 4.1 Each Cabinet Member attending a Cabinet meeting must, with a view to securing the recording of their attendance sign the attendance sheet provided by the Assistant Director of Governance (Democratic and Regulatory Services )for that purpose. If any Member arrives and the attendance sheet has already been circulated, they must intimate their presence to the Head of Governance and Regulatory Services.

#### **5. Chairing**

- 5.1 The Leader (or the Deputy Leader in their absence) will be the Chair of meetings of the Cabinet.

#### **6. Attendance Rights of Members**

- 6.1 If a Cabinet Member is unable to attend a meeting of the Cabinet, they may nominate a Deputy Cabinet Member to attend in their place. These Members may attend and speak at meetings of the Cabinet but may not vote and are not Members of the Executive.
- 6.2 Subject to the Access to Information Procedure Rules and paragraph 10 and the Access to Information Rules, any Member of the Council may attend any meeting of the Cabinet, excluding those parts of the meeting when the public are excluded.

#### **7. Member Questions**

- 7.1 If a Member of the Council wishes to ask a question under 3(f) or (g) above, they must give 2 working days' notice of the question to the Head of Governance and Regulatory Services, e.g. by 5.00 p.m. on the Wednesday preceding a Cabinet meeting on Monday. The number of questions which can be asked at a meeting will be limited to two per Member (or one question plus a supplementary). Responses to the substantive questions will be given to the questioner in writing before the start of the meeting and copies of the question and response will be available to all in attendance. The responses to substantive questions will not be read out at the meeting. A questioner who asks only one substantive question will be entitled to ask a supplementary question and if they do so, a response to it will be given orally by the Chair, or such other Member of officer as is determined by the Chair. Supplementary questions are subject to a limit of 75 words. If a response to a supplementary question cannot conveniently be given orally, a written answer will be sent to the questioner within 7 working days of the meeting.
- 7.2 The total time for Member questions will be limited to 15 minutes. Member questions are subject to a maximum word limit of 110 words. Member questions that are in excess of 110 words will be disqualified. If the questioner is not present at the meeting or if any questions remain unanswered within that timescale, written responses will be sent to the questioners within 7 working days of the meeting.

#### **4. Public Questions**

- 8.1 A person resident in Norfolk, or who is a non-domestic ratepayer in Norfolk, or who pays Council Tax in Norfolk, may attend meetings of the Cabinet and, by giving two working days' notice, e.g. by 5.00 p.m. on the Wednesday preceding a Cabinet meeting on Monday, may ask any question on any matter in respect of Cabinet's delegated powers. Eligibility to ask questions at Cabinet does not extend to County Council employees asking questions relating to their employment.
- 8.2 The number of questions which may be asked at a meeting will be limited to one per person (or one plus a supplementary) in any six-month period. Substantive questions are subject to a maximum word limit of 110 words. Substantive questions that are in excess of 110 words will be disqualified. Responses to the substantive questions will be given to the questioners in writing before the start of the meeting and copies of the questions and responses will be available to all in attendance. The responses to substantive questions will not be read out at the meeting. A questioner who asks only one substantive question will be entitled to ask a supplementary question and, if they do so, a response to it will be given orally by the Chair. Supplementary questions are subject to a limit of 75 words. If a response to a supplementary question cannot conveniently be given orally, a written answer will be sent to the questioner within 7 working days of the meeting.
- 8.3 Public Question Time will be limited to 15 minutes in total. If the questioner is not present at the meeting or if any questions remain unanswered within that timescale, a written response will be sent to the questioner within 7 working days of the meeting.

#### **5. Conduct of meetings**

- 9.1 The Chair will conduct the business of the meeting so as to encourage decision by consensus.
- 9.2 Subject to the rules regarding the declaration of interests, every Member is entitled to express a view on each item of business.
- 9.3 Following debate, the Chair will summarise the discussion and formulate a proposition which they will put to the Cabinet for agreement. A vote will not be taken unless the Chair so decides but any Member who dissents from a decision of the Cabinet is entitled to have that dissent recorded in the minutes, provided this request is made immediately upon the decision having been taken.
- 9.4 If necessary to maintain an orderly discussion, the Chair may:
- a) require a vote to be taken by a show of hands
  - b) restrict the number of times any Member may speak

- c) restrict the length of speeches
- d) adjourn the discussion to a later meeting

9.5 In the event of a vote being taken and the votes for and against being equal, the Chair has a second or casting vote.

9.6 If necessary to maintain order, the Chair may:

- a) with the consent of the Cabinet, require a Member of the Cabinet, Council or the public to leave the room
- b) may direct a Member to be silent
- c) may adjourn or terminate the meeting.

## **6. Public Misconduct**

6.1 If a member of the public interrupts a meeting or otherwise behaves irregularly, improperly or offensively, the Chair may request that they leave the room or order that they be removed. In the event of a general disturbance, the Chair may suspend the meeting or direct that the public be excluded from it. No one so removed or excluded will be permitted to return to the meeting.

## **7. Discussion of Employees**

11.1 No discussion will take place concerning an individual employee unless the Chair has decided whether to discuss the matter in public or private session.

## **8. Provisions on conflicts of interest**

12.1 Where the relevant Member has a Disclosable Pecuniary Interest in a matter to be considered at the meeting and that interest is on the Register of Interests, they must not speak or vote on the matter. If they have a Disclosable Pecuniary Interest in a matter to be considered at the meeting and that interest is not on their Register of Interests they must declare that interest at the meeting and not speak or vote on the matter. In either case they may remain in the room where the meeting is taking place. If they consider that it would be inappropriate in the circumstances to remain in the room, they may leave the room while the matter is dealt with.

12.2 Where a matter arises at a meeting which relates to or affects an 'Other Interests' the relevant Member must declare the existence and nature of the interest unless it has been entered in the County Council's register of interests.

12.3 An 'Other' interest is one which affects, to a greater extent than others in their division the relevant Member's:

- own wellbeing or financial position or
- that of family or close friends
- any body –
  - a) exercising functions of a public nature

- b) directed to charitable purposes; or
- c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);

of which the Member is in a position of general control or management

- 12.4 Where an 'other interest' arises, the relevant Member will declare an interest (an "Other Interest") but may speak and vote on the matter.

## **9. Interpretation of Rules of Procedure**

- 13.1 The ruling of the Chair as to the construction or application of the Rules or as to any proceedings of the Cabinet will be final for the purposes of the meeting at which it is given.



## **Part 7 – Overview and Scrutiny Bodies**

### **7.1 General**

The Council has agreed that Overview and Scrutiny should be exercised through the Scrutiny Committee and three Select Committees. The statutory scrutiny arrangements are set out below.

### **7.2 Scrutiny Committee**

- (i) The Council appoints the Scrutiny Committee from among the non-executive Members of the Council to review or scrutinise decisions made or other action taken in accordance with:
  - a) any functions which are the responsibility of the Executive, including decisions made/actions taken directly by the Executive itself and those decisions/actions delegated to Chief Officers and individual Members of the Executive; and
  - b) any functions which are not the responsibility of the Executive.
- (ii) The Scrutiny Committee may make reports or recommendations to either the Cabinet or to the County Council with respect to:
  - a) the discharge of any functions which are the responsibility of the Executive;
  - b) the discharge of any functions which are not the responsibility of the Executive;
  - or
  - c) matters which affect Norfolk or its inhabitants.
- (iii) The Scrutiny Committee:
  - a) exercises overall responsibility for the resources made available to it by the Council;
  - b) conducts its proceedings in accordance with the additional Overview and Scrutiny Procedure Rules set out in Appendix 10.

### **7.3 Membership of the Scrutiny Committee**

- (i) The Committee comprises 13 Members of the Council who are not Members of the Executive, 2 Parent Governor representatives and 1 representative of each of the Church of England and Roman Catholic Diocesan Boards. The Council Members will be appointed to reflect the political balance requirements.
- (ii) The Committee will be chaired by the Chair of the Committee who will be appointed by the Council and who will normally be the Leader of the main Opposition Group on the Council.
- (iii) The Parent Governor and Church representatives are entitled to speak on all matters considered by the Scrutiny Committee but vote only on matters relating to education.

- (iv) The quorum for meetings of the Scrutiny Committee is 7.

#### **7.4 Powers of the Scrutiny Committee**

- (i) In carrying out its powers of review and scrutiny the Scrutiny Committee will take into account the desirability of co-ordination and avoiding duplication with the work of the County Council's Select Committees.
- (ii) The Scrutiny Committee has the power to 'call-in' for scrutiny all decisions made by the Cabinet but not implemented and recommend that they are reconsidered or be reviewed or scrutinised by the full Council.
- (iii) The Scrutiny Committee should only use the power to refer matters to the full Council:
- a) if the Committee considers that the decision is contrary to the policy framework; or
  - b) if the Committee considers that the decision is contrary to or not wholly in accordance with the budget.

Any called-in matters that are considered by full Council under this arrangement will be dealt with in accordance with the full Council procedure rules rather than the scrutiny procedure rules. This means that all Members of the Council may participate, the debate will be chaired by the Chair of the County Council, and there will be no opportunity to question officers.

- (iv) The Scrutiny Committee also has the power to 'call-in' for scrutiny any decisions (as defined in Part 10) which are the responsibility of the Executive but taken by an individual Cabinet Member or officer on the Executive's behalf. The Committee may recommend that the decisions are reconsidered by the person or body which made the decision.
- (v) The call-in power is to be taken in accordance with the County Council's system for the call-in of decisions, as follows:
- a) any Member of the Council, with the support of three other Members must give notice within five working days of a meeting of the Cabinet or, if the decision is taken by an individual Member or Chief Officer, within five working days of the decision being published under the Access to Information Procedure Rules in Part 11A
  - b) where education matters are involved, the Parent Governor and Church representatives together count as one Member;
  - c) a Member who has called in a decision may participate in the debate of that call-in by the Scrutiny Committee, irrespective of whether they are a Member of the Scrutiny Committee;
  - d) The call-in procedure will not apply to urgent decisions. In this respect:
    - in deciding the urgency of key decisions, the procedure in Paragraphs and 1.9 of the Access to Information Procedure Rules will apply;
    - in deciding the urgency of decisions which are contrary to the Budget and Policy Framework, the procedure in Paragraph 1.9 of the Budget and their Policy Framework Rules will apply;
    - in all other cases the final decision as to whether a decision is urgent will rest with the Head of Paid Service or in their absence the Monitoring Officer. For

this purpose, an urgent decision is one which cannot reasonably wait until the full call-in process would otherwise have been completed.

- (vi) In order to enable it to exercise its powers, the Scrutiny Committee may:
  - a) require the Leader, Cabinet Members and officers to attend before it and answer questions; and such Members and officers will attend unless reasonably prevented from doing so;
  - b) invite any other person to attend its meetings and answer questions but may not require them to do so; \*
  - c) question and gather evidence from any person with their consent;
  - d) commission reports from officers;
- (vii) The Scrutiny Committee is the Council's designated Crime and Disorder Committee for the purposes of section 19 of the Police and Justice Act 2006.

\*N.B. Reasonable travel expenses are payable on request to members of the public and to members of voluntary organisations who are invited to attend meetings

## **7.5 Children's Services Scrutiny Sub-Committee**

- (i) The Scrutiny Committee has established a Sub-Committee consisting of five non-Executive Members specifically to scrutinise the performance of Children's Services.

## **7.6 Select Committees**

- (i) The Council has appointed three Select Committees from among the non-executive Members so that their areas of responsibility cover all the main services of the Council. These Select Committees are:
  - a) People and Communities Committee
  - b) Infrastructure and Development Committee
  - c) Corporate Committee
- (ii) The Select Committees may within their areas of responsibility consider proposed decisions to be made or other action taken in connection with:
  - a) any functions which are the responsibility of the Executive; and
  - b) any functions which are not the responsibility of the Executive.
- (iii) The Select Committees may within their areas of responsibility make reports or recommendations to either the Leader, the Cabinet, the relevant Cabinet Member or the County Council with respect to:
  - a) the discharge of any functions which are the responsibility of the Executive;
  - b) the discharge of any functions which are not the responsibility of the Executive;
  - or
  - c) matters which affect Norfolk and its inhabitants.
- (iv) Each Select Committee also has the following roles within its area of responsibility:

- a) assist and advise the Council Leader and the Cabinet in the development of the policy framework
  - b) review the performance of the Executive in relation to its policy objectives and performance targets
- (v) Select Committees must be mindful as to avoid duplication with the work undertaken by the Scrutiny Committee.
- (vi) Select Committees do not have the power to 'call-in' decisions made but not implemented.
- (vii) Select Committees will conduct their proceedings in accordance with Appendix 10.
- (viii) Any reports and recommendations made by Select Committees will include any dissenting views

## **7.7 Membership and Areas of Responsibility of Select Committees**

The Select Committees have the following membership and areas of responsibility:

### **(i) People and Communities Select Committee**

13 members

Remit: The People and Communities Select Committee is aligned to people orientated services which are based on individual need. These services are predominantly for children and adults but also include other services that contribute to our residents' well-being.

The Committee supports the Cabinet and Council in its work with adults and older people with disabilities; services for young people who are vulnerable and improving educational attainment together with services to improve the wellbeing of our residents such as Arts and Culture, Public Health and Adult Education.

### **(ii) Infrastructure and Development Select Committee**

13 members

Remit - The Infrastructure and Development Select Committee is aligned to the physical, geographical and economic services we provide to our residents. These services relate to the entire community both at whole County level and at neighbourhood level and take a strategic approach to prevent the fragmentation of service provision that leads to gaps or duplication of effort.

The Committee supports the Cabinet and Council in its work on transport, environmental services and growing the economy to enable our residents to live in resilient, prosperous, safe and sustainable communities with the facilities and infrastructure they need.

### **(iii) Corporate Select Committee**

13 members

Remit: The Corporate Select Committee is aligned to the overall governance, resources and assets of the Council.

The Committee supports the Cabinet and Council in ensuring good governance and that the resources and assets are used as efficiently and effectively as possible and that as a result the Council minimises risk, is resilient, takes advantage of opportunities arising from new technology and communicates effectively with its residents and stakeholders.

The Corporate Select Committee shall also review the content and operation of the Constitution at least annually and at the request of the Council or the Director of Governance, to ensure it remains fit for purpose as set out in Part 1 of this Constitution.

## **7.8 Powers of Select Committees**

- (i) To enable them to exercise their powers each Select Committee may within their areas of responsibility:
  - a) review matters which are not the responsibility of the Council, but which affect the social, environmental and economic well-being of the inhabitants of Norfolk;
  - b) require the appropriate Cabinet Members and officers to attend before it and answer questions; and such Members and officers will attend unless reasonably prevented from doing so;
  - c) question and gather evidence from any person with their consent;
  - d) commission reports from officers;
  - e) the Select Committees may carry out elements of “scrutiny” in so far as it relates to developing policy, by considering what has worked well, or less well, in the past.

## **7.9 General**

- (i) Cabinet Members may attend and speak at meetings of the Select Committees. Cabinet Members attend to provide input into discussions on policy development and respond to questions raised during Select Committee meetings.
- (ii) The quorum for meetings of Select Committees is 7.

## **Part 7A: Overview and Scrutiny Procedure Rules**

### **1. The following rules apply to the Scrutiny Committee and its Sub-Committee:**

- (a) Members of the Cabinet may not serve as ordinary or substitute Members of the Scrutiny Committee. Deputy Cabinet Members may not serve on the Scrutiny Committee.
- (b) The Scrutiny Committee should not normally scrutinise individual decisions made by other Committees of the County Council, particularly decisions relating to development control and other permissions.
- (c) The views of all Members of the Scrutiny Committee (or Sub-Committee) should be taken into account when deciding the Committee work plans.
- (d) The Scrutiny Committee should consider the remit and work plans for the Select Committees and consider adopting an approach that compliments and avoids duplication of the Select Committees remit and work plans.
- (e) Party whipping will not take place.
- (f) The Relevant Chief Officer should present reports and attend meetings.
- (g) Reports to the Leader, Cabinet or Council will include the views of Members dissenting from the majority recommendation of the Committee.

### **2. The following rules apply only to the Scrutiny Committee and its Sub-Committee:**

#### **2.1 Agenda Planning**

##### **2.1.1 The Chair and the Scrutiny Committee will agree:**

- Which matters the Committee is to scrutinise (except for call-ins).
- Which Members of the Cabinet and officers it requires to attend and answer questions.

##### **2.1.2 For call-in items only, the Chair and the Members calling-in an item will agree which Members of the Cabinet and officers they require to attend and answer questions.**

#### **2.2 Questioning**

##### **2.2.1 The Chair may permit a Member not on the Scrutiny Committee (including Members of the Cabinet) to speak and ask questions of those being scrutinised if a matter on the agenda has a particularly significant impact on that Member's division or if the Committee is considering a call-in made by the Member concerned.**

##### **2.2.2 Members should endeavour not to request detailed information from officers at meetings of the Committee, unless they have given prior notice through the officer**

supporting the Committee. If, in the course of question and answer at a meeting of Committee, it becomes apparent that further information would be helpful, the officer being questioned may be required to submit it in writing to the Scrutiny Committee Members.

- 2.2.3 In the course of questioning at meetings, officers other than the Head of Paid Service and Chief Officers may decline to give information or respond to questions on the ground that it is more appropriate that the question be directed to the Head of Paid Service or relevant Chief Officer. Officers may also decline to provide information to which Members do not have a right of access.
- 2.2. 4Members of the Executive and officers may decline to answer questions in an open session of the Committee on the grounds that the answer might disclose information that would be exempt or confidential as defined in the Access to Information Procedure Rules. In that event, the Committee may resolve to exclude the media and public in order that questions may be answered in private session.
- 2.2.5 Anyone other than a Member of the Executive or an officer attending at the invitation of the Committee may decline to answer any question without giving reasons.

### **3.1 Formulation of Recommendations and Reports**

- 3.1.1 After debate, the Committee will decide whether to report or express comments to the Leader, Cabinet, Cabinet Member, the relevant officer or the Council. There is a legal requirement for the Executive to respond to recommendations within 2 months of them being made.

## **Part 7B: Statutory Scrutiny**

### **1. General**

There is a statutory requirement for the Council to make arrangements for the scrutiny of certain matters, as specified in the following legislation:

- Section 21 of the Local Government Act 2000 and Section 7 of the Health and Social Care Act 2001 as amended by the Health and Social Care Act 2012 and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (SI 2013/218).
- These powers shall be exercised by the Norfolk Health Overview and Scrutiny Committee.

The Council has a role as lead authority under joint arrangements for the Norfolk Police and Crime Panel.

The Council has also agreed to establish a scrutiny function of the Norfolk Community Safety Partnership. This function shall be exercised through the Countywide Community Safety Partnership.

### **2. Norfolk Health Overview and Scrutiny Committee**

The Council has established a Norfolk Health Overview and Scrutiny Committee, with powers to scrutinise National Health Service bodies in Norfolk. The quorum for meetings of Norfolk Health Overview and Scrutiny Committee is 5.

#### **2.1 Membership of the Norfolk Health Overview and Scrutiny Committee**

- Membership
  - Norfolk County Council Members (politically balanced).
  - District Council Members – one co-opted from each District.
  - District Council Members must be Members of an Overview and Scrutiny Committee of the Council(s) which they are representing.
  - Each Member of the Committee to have one named substitute. No other substitutes acceptable.
  - The Chair to be elected from the Norfolk County Council Members on the Committee, on an annual basis.
  - The Vice-Chair to be elected from the Norfolk District Council Members on the Committee, on an annual basis.
- Co-opted Members (non-voting) to represent the Waveney area of Suffolk
- Members of Suffolk Health Scrutiny Committee:
  - 1 must be an East Suffolk District Councillor
  - 1 must be a Suffolk County Councillor



- Each co-opted Member may have one named substitute. No other substitutes acceptable.
- c) Contributions from others
- The Committee will invite contributions from commissioners and providers of local NHS funded healthcare, Local Healthwatch, client groups, voluntary organisations, patients and public, or any other stakeholder involved in 'health'.
  - Depending upon the issue under scrutiny, stakeholders may be invited to contribute to relevant meetings of the Committee or to submit their views in writing or both. Individual stakeholders may also be asked to become a Member of a task-and-finish Working Group set up by the Committee.

## **2.2 Terms of Reference of the Norfolk Health Overview and Scrutiny Committee**

Aims of the Committee:

- a) To ensure that the needs and wishes for health and health-related services of all the population (including minorities, socially excluded groups and other targeted equality groups) have been identified towards achieving local health improvement.
- b) To scrutinise whether services provided that have an impact on the health of local inhabitants are accessible to, and can be accessed by, all parts of the local community.
- c) To scrutinise whether the outcomes of intervention (whether through services or other intervention designed to have a positive impact on the health of local inhabitants) are equally good for all groups and sections of the local population.

## **2.3 Legal background**

- a) Local authority overview and scrutiny committees are part of the arrangements for local government under Part II of the Local Government Act 2000. Local authorities are given the power under the 2000 Act to review and scrutinise executive decisions in relation to local authority functions including local services planned and provided as part of their wider responsibility to see health improvements and reduce health inequalities for their area and its inhabitants.
- b) The Health and Social Care Act 2012 (Section 7) extends the overview and scrutiny power of local authorities with social services responsibilities to review and scrutinise matters relating to the health service in the authority's area and make reports and recommendations on such matters. The scrutiny role also covers social care services commissioned or provided by NHS bodies exercising local authority functions under the Health Act 1999 (Section 31).
- c) The Health and Social Care Act 2012 introduced the following changes to the local authority health scrutiny functions;
  - Health Scrutiny powers are now vested in the upper tier local authority rather than

- in health overview and scrutiny committees.
- There does not have to be a designated health overview and scrutiny committee as the local authority can choose to discharge its health scrutiny powers in other ways.

- d) As a Committee of the County Council, the County Council's Constitution will apply, except only for differences specified in this Constitution.

## 2.4 Roles

To review or scrutinise health services commissioned or delivered in the authority's areas within the framework set out below:

- a) Arrangements made by local NHS bodies to secure hospital and community health services to the inhabitants of Norfolk;
- b) The provision of such services to those inhabitants;
- c) The provision of family health services, personal medical services, personal dental services, pharmacy and NHS ophthalmic services;
- d) The NHS public health arrangements in Norfolk, e.g. Arrangements by the NHS bodies for the surveillance of, and response to, outbreaks of communicable disease;
- e) The planning of health services by NHS bodies, including plans made in co-operation with local authorities setting out a strategy for improving both the health of the local population and the provision of health care to that population;
- f) The arrangements made by NHS bodies for consulting and involving patients and the public under the duty placed on them by Section 11 of the Health and Social Care Act 2001;
- g) To make reports and recommendations to the Board of the NHS body scrutinised, with copies to individuals and organisations as follows:
  - the local Members of Parliament
  - the NHS Commissioning Board
  - Local Healthwatch
  - relevant patients' groups
  - local voluntary organisations with an interest
  - other bodies or organisations with an interest in the issues dealt with in the report and made available on the local authority website and on request;
- h) The Committee has been given delegated power by the County Council to enter into, and to appoint Members to Joint Health Overview and Scrutiny Committees as required and the Council has waived the requirement for the Committee's appointments to such Joint Committees to be in line with the political balance on Norfolk County Council and the requirement for any other Council participating in such Joint Committees to make its appointments in line with the political balance on its Council.
- i) The Committee (and any joint health scrutiny committees in which Norfolk participates) has been given delegated powers to make referrals to the Secretary of State in accordance with the Regulations, but the Committee (and any joint health scrutiny

committees in which Norfolk participates) must notify the Council of its intention to make such a referral before the referral is made.

## **2.5 Operation of the Norfolk Health Overview and Scrutiny Committee**

- a) The views of all Members of the Committee should be taken into account when deciding their work plans.
- b) Party whipping will not take place.
- c) The Relevant Chief Officer should present reports and attend meetings.
- d) Reports to Council will include the views of Members dissenting from the majority recommendation of the Committee.

## **3. Norfolk Police and Crime Panel**

The Police Reform and Social Responsibility Act 2011 introduced significant changes in police governance and accountability, in particular replacing the Police Authorities with directly elected Police and Crime Commissioners (Commissioners). The Act also requires the local authorities in each police force area to establish a Police and Crime Panel (panel), as a joint committee, primarily to scrutinise the commissioner. The Act also prescribes many of the arrangements with regard to the panel and the way in which it conducts its business. Norfolk County Council is the host authority for the Norfolk Police and Crime Panel. The Panel's membership, terms of reference and procedures can be viewed on the [Panel webpage](#).

### **3.1 Functions of the Norfolk Police and Crime Panel**

- a) The functions of the PCP must be exercised with a view to supporting the effective exercise of the functions of the PCC for Norfolk:
- b) The PCP must: -
  - i. review the draft police and crime plan, or draft variation given to the PCP by the PCC, and
  - ii. make a report or recommendation on the draft plan or variation to the PCC.
- c) The PCP must: -
  - i. arrange for a public meeting of the PCP to be held as soon as practicable after the PCP is sent the PCC's annual report;
  - ii. ask the PCC, at that meeting, such questions about the annual report as the members of the PCP think appropriate;
  - iii. review the annual report, and
  - iv. make a report or recommendations on the annual report to the PCC.
- d) The PCP must hold a confirmation hearing to review the proposed appointment by the PCC of:
  - i. the PCC's chief executive

- ii. the PCC's chief finance officer
- iii. a deputy PCC

The PCP must make a report to the PCC and the report must include a recommendation as to whether or not the candidate should be appointed.

- e) The PCP must respond to any proposal by the PCC to call upon the Chief Constable to retire or resign, by making a recommendation to the PCC as to whether or not the PCC should call for the retirement or resignation.
- f) The PCP must review, make a report and may make recommendations on the precept which the PCC proposes to issue for the financial year.
- g) The PCP must hold a confirmation hearing to review the proposed appointment by the PCC of a Chief Constable. The PCP must make a report to the PCC and the report must include a recommendation as to whether or not the candidate should be appointed or must include a statement that the PCP has vetoed the appointment.
- h) The PCP must: -
  - i. review or scrutinise decisions made, or other action taken, by the PCC in connection with the discharge of the PCC's functions; and
  - ii. make reports or recommendations to the PCC with respect to the discharge of the PCC's functions.
- i) The PCP must publish any reports or recommendations made by it to the PCC and must determine the manner in which such reports or recommendations are to be published.
- j) The PCP must send copies of any reports or recommendations it makes to the PCC, to each local authority (county, city, district and borough councils) in Norfolk.
- k) The PCP must fulfil functions in relation to complaints about conduct matters, in accordance with the responsibilities given to the PCP by the Act.
- l) The PCP must appoint an Acting PCC in the circumstances set out in the Act.
- m) The PCP may not exercise any functions other than those conferred by the Act.

#### **4. Scrutiny of the Norfolk Countywide Community Safety Partnership**

- 4.1 The Scrutiny Committee has the power to scrutinise and make reports and recommendations, regarding decisions taken by the 'responsible authorities' in connection with the discharge of their crime and disorder functions. For this purpose, the Committee has established a Norfolk Countywide Community Safety Partnership Sub Panel.
- 4.2 The 'responsible authorities' in Norfolk are:
  - The County Council

- District Councils
- Norfolk Constabulary
- Norfolk Fire and Rescue Service
- Health – Clinical Commissioning Groups
- Probation service

### **4.3 Role of the Sub Panel**

- 4.3.1 The role of the Norfolk Countywide Community Safety Partnership Sub Panel is to:
- 4.3.2 Scrutinise on a quarterly basis the Community Safety Partnership Plan and on such other occasions as are required to scrutinise the actions, decisions and priorities of the Norfolk Countywide Community Safety Crime and Disorder Partnership in respect of crime and disorder.
- 4.3.3 Scrutinise the priorities as set out in the annual Countywide Community Safety Partnership Plan.
- 4.4.4 Make any reports or recommendations to the Countywide Community Safety Partnership and/or where considered appropriate to the Scrutiny Committee.

### **4.4 Membership of the Sub Panel**

- 3 County Councillors (Politically balanced and can be drawn from the Police and Crime Panel)
- 7 District Council Members – one co-opted from each District.
- Each member of the Sub Panel to have one named substitute. No other substitutes are acceptable.
- The Sub Panel may wish to consider co-opting additional non-voting members onto it if appropriate.
- The Chair to be elected from the County Council Members on the Sub Panel on an annual basis.
- The Vice Chair to be elected from other members on the Sub Panel on an annual basis.

### **4.5 Working Style**

- The Sub Panel meetings will be held quarterly to scrutinise the progress being made with delivering the Partnership Plan and on such other occasions as are required.
- The Chair will provide regular update reports to the Scrutiny Committee.
- The quorum for the Sub Panel will be five members.
- Unless otherwise stated meetings of the Sub Panel will be held in accordance with Appendix 8 of the County Council's constitution.

#### **4.6 General issues**

- Democratic support to the Sub Panel will be provided by the County Council.

## **Part 8 – Regulatory and Other Committees**

### **8.1 Regulatory and Other Committees**

The Council appoints Committees to discharge functions which are not the responsibility of the Executive.

The Member representation on these Committees and panels is politically balanced in accordance with the requirements of the Local Government and Housing Act 1989.

### **Part 8A: Composition, Terms of Reference or Regulatory and Other Committees**

#### **1. Planning (Regulatory) Committee**

##### **1.1 Composition**

13 Members of the Council but may not include any Members of the Cabinet.

Substitutes will be drawn from a nominated panel of trained Members.

##### **1.2 Terms of Reference**

To exercise the Council's powers and duties in respect of town and country planning and development control which are not the responsibility of the Council's Cabinet.

To exercise the Council's powers and duties in respect of obtaining information as to interests in land under Section 330 of the Town and Country Planning Act 1990.

To exercise the Council's powers and duties in respect of obtaining particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

Additionally, the Planning Regulatory Committee shall:

1. Deal with those nationally significant infrastructure project consultations, where the promoter/applicant is Norfolk County Council
2. Deal with explosives
3. Review applications under the Marriage Act 1994
4. Deal with registration of common land and village greens and variation of rights of common
5. Deal with public rights of way and access (insofar as they are not executive functions of the Council)
6. Any other issues of a quasi-judicial nature requiring a Member decision or referred to this Committee by a Chief or other officer (including the determination of any appeal against any decision made by or on behalf of the Council), and not allocated to any other Member body.

#### **2 Planning (Regulatory) Urgent Business Sub-Committee**

## **2.1 Composition**

5 named members of the main Committee.

## **2.2 Terms of Reference**

To exercise all the powers of the main Committee where a decision is required urgently (having been agreed as such by the Assistant Director of Governance (Democratic and Regulatory Services) and relevant Chief Officer).

## **3 Pensions Committee**

### **3.1 Composition**

5 Members of the Council which may include 2 Members of the Cabinet

2 additional voting Members nominated by the Norfolk Leaders Board to represent the interests of District Councils and other authorities which are admitted to the Norfolk County Superannuation Fund.

1 staff representative, with full voting rights.

Note: The Members have Trustee status and no substitution is permitted.

### **3.2 Terms of Reference**

1. To administer all aspects of the Norfolk Pension Fund on behalf of Norfolk County Council as Administering Authority of the Local Government Pension Scheme, and on behalf of Norfolk County Council as an employer within the Scheme alongside all other contributing employers, and on behalf of all scheme beneficiaries (scheme members) including:
  - (a) Functions relating to local government pensions etc. under regulations made under Sections 7, 12 or 24 of the Superannuation Act 1972.
  - (b) To receive and consider the draft Financial Statements for the Norfolk Pension Fund.
  - (c) To comment on the draft Financial Statements and make a recommendation to the Audit Committee that they be approved/not approved.

## **4 Audit Committee**

### **4.1 Composition**

7 Members of the Council, on a politically balanced basis. Cabinet members may not be members of this Committee. No more than 1 Scrutiny Committee Member to serve on this Committee but may not serve as Chair.



## 4.2 Terms of Reference

### A. Governance

1. Consider the Annual Governance Statement, and be satisfied that this statement is comprehensive, properly reflects the risk and internal control environment, including the System of Internal Audit, and includes an agreed action plan for improvements where necessary.

### B. Internal Audit and Internal Control

1. With Chief Officers, to provide proactive leadership and direction on audit governance issues and champion audit and internal control throughout the Council.
2. Consider annually the effectiveness of the system of internal audit including internal audit's strategy, plan and performance and that those arrangements are compliant with all applicable statutes and regulations, including the Public Sector Internal Audit Standards and the Local Authority Guidance Note of 2013 and any other relevant statements of best practice.
3. Consider an annual report and quarterly summaries of internal audit reports and activities which include an opinion on the adequacy and effectiveness of the Council's internal controls including risk management, any corporately significant issues arising, and receive assurance that action has been taken as necessary.
4. Consider reports showing progress of all clients against the audit plan and proposed amendments to the Council's audit plan.
5. Ensure there are effective relationships between internal audit and external audit, other inspection agencies and other relevant bodies and that the value of the audit process is actively promoted.

### C. Risk Management

1. Provide proactive leadership and direction on risk management governance issues and champion risk management throughout the council and ensure that the full Council is kept sufficiently informed to enable it to approve the Council's risk management Policy and Framework and that proper insurance exists where appropriate.
2. Consider the effectiveness of the system of risk management arrangements.
3. Consider an annual report and quarterly reports with respect to risk management including, an opinion on the adequacy and effectiveness of the Council's risk management, any corporately significant issues arising, and receive assurance that action has been taken as necessary.
4. Receive assurances that action is being taken on risk related issues identified by both internal and external auditors and other inspectors.
5. Independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk.
6. Report annually to full Council as per the Financial Regulations.

- D. Anti-Fraud and Corruption
  - 1. Provide proactive leadership and direction on Anti-Fraud and Corruption and champion Anti-Fraud and Corruption throughout the Council.
  - 2. Consider the effectiveness of the Council's Anti-Fraud and Corruption arrangements.
  - 3. Consider an annual report on activity with respect to Anti-Fraud and Corruption performance and receive assurances that action is being taken where necessary.
- E. Annual Statement of Accounts
  - 1. Consider the external auditor's reports and opinions, relevant requirements of the International Standards on Auditing and any other reports to Members with respect to the Accounts, including the Norfolk Pension Fund, Norfolk Fire-fighters' Pension Fund and approve the Accounts on behalf of the Council and report required actions to the Council. Monitor management action in response to issues raised by the external auditor.
  - 2. Consider the External Auditors' Annual Governance Report and approve the Letter of Representation with respect to the Accounts and endorse the action plan contained in this Report.
- F. External Audit
  - 1. Consider reports of external audit and inspection agencies.
  - 2. Ensure there are effective relationships between external audit and internal audit.
  - 3. Consider the scope and fees of the external auditors for audit, inspection and other work.
- G. Norfolk Pension Fund
  - 1. Following presentation to the Pensions Committee and with due regard to any comments and observations made, consider the draft Accounts of the Norfolk Pension Fund.
- H. Treasury Management
  - 1. Consider the effectiveness of the governance, control and risk management arrangements for Treasury Management and ensure that they meet best practice.
- I. Administration
  - 1. Review the Committee's own terms of reference no less frequently than annually and where appropriate make recommendations to the Council for changes.
  - 2. Ensure Members of the committee have sufficient training to effectively undertake the duties of this committee.
  - 3. Consider the six monthly and Annual Reports of the Chair of the Committee.

## **5. Health and Wellbeing Board**

### **5.1 Composition**

Relevant Cabinet Member for Adults, Public Health/ and Prevention  
 Relevant Cabinet Member for Children's Services and Education  
 Leader of the Council or their nominee  
 Director of Public Health\*  
 Head of Paid Service (or their nominee), Norfolk County Council  
 Director of Children's Services\*  
 Director of Adult Social Services\*  
 Chair of Healthwatch Norfolk\*  
 Representatives agreed with each of the CCGs\*  
 Representatives agreed with all 7 District/City/Borough Councils  
 Area Director NHS England East Sub Region Team  
 Three representatives from the voluntary sector, as agreed through Norfolk  
 Voluntary, Community and Social Enterprise System Leadership Group  
 Norfolk's Police and Crime Commissioner  
 Norfolk's Chief Constable  
 Norfolk & Waveney Sustainability & Transformation Partnership (Chair)  
 Norfolk & Waveney Sustainability & Transformation Partnership (Executive Lead)  
 Cabinet Member for Community Health & Safety - Waveney District Council (or its  
 successor authority)  
 East Coast Community Healthcare CIC  
 James Paget University Hospital NHS Trust  
 Norfolk Community Health & Care NHS Trust  
 Norfolk Independent Care  
 Norfolk & Norwich University Hospital NHS Trust  
 Norfolk & Suffolk NHS Foundation Trust  
 Queen Elizabeth Hospital NHS Trust  
 Cambridgeshire Community Services NHS Trust  
 East of England Ambulance Trust

\* Denotes statutory Member

## 5.2 Terms of Reference

Aim:

The Norfolk Health and Wellbeing Board will lead and advise on work to improve the health and wellbeing of the population of Norfolk by providing strategic leadership of, and oversight for, the commissioning across the NHS, social care and public health.

Purpose is to:

1. Lead the development, with Norfolk County Council and Norfolk's Clinical Commissioning Groups, of the Joint Strategic Needs Assessment (JSNA).
2. Influence and support commissioners of health and wellbeing services to act in line with the evidence-based findings of the JSNA, and to highlight where commissioning is out of step with best evidence.
3. Lead the development, with Norfolk County Council and Norfolk's Clinical Commissioning Groups, of the Joint Health and Wellbeing Strategy (JH&WBS).

4. Undertake the Norfolk Pharmaceutical Needs Assessment (PNA).
5. Speak up for Norfolk, championing the health and wellbeing needs of the people of Norfolk at a local, sub-regional and national level and challenging central government policy where it conflicts with locally identified priorities.
6. Lead and encourage a broad base of partners outside of formal health, public health and social care settings to tackle the wider determinants of health and wellbeing, including, for example, housing.
7. Work as system leaders to drive the further integration of health and social care services, and other public services and to ensure collaboration across the health and social care system, seeking assurance of the vision of the Norfolk and Waveney Sustainability and Transformation Plan (STP).
8. Promote the sharing of good practice and learning across the Norfolk health and wellbeing system, through workshops, training sessions, HWB events, good practice awards, etc.
9. Seek assurance on whether the Clinical Commissioning Groups' (CCGs) commissioning plans take proper account of the JH&WBS, and provide a view to NHS England, as part of the annual performance assessment of CCGs, on the CCGs' contribution to the delivery of the JH&WBS.

In addition to the above Terms of reference, the following provisions apply:

- Establishment of sub-committees and delegation – The Health and Wellbeing Board will have the power to establish sub-committees and to delegate functions to them.
- Voting restrictions – voting rights will be extended to all members of the Health and Wellbeing Board (not just elected Members).
- Political proportionality requirements – will not be a requirement for the Health and Wellbeing Board.
- Disqualification for membership – provision for disqualification for membership will apply to the Health and Wellbeing Board.
- Codes of Conduct and declarations of interest – the provisions in the Council's Constitution relating to Codes of Conduct and the disclosure of pecuniary interests will apply to all Members of the Health and Wellbeing Board.

Questions by the Public:

The public are entitled to ask questions at meetings of the Health and Wellbeing Board, in line with the following procedures:

1. How to ask a question.

A question must be put in writing and in advance:

- a) 2 working days' notice of the question is given in writing to the Assistant Director of Governance (Democratic and Regulatory Services); e.g. no later than 9:00am on the Monday preceding the Health and Wellbeing Board meeting on a Wednesday;

or,

- b) If the question relates to urgent matters, and it has the consent of the chair to whom the question is to be put, and the content of the question is given to the Assistant Director of Governance (Democratic and Regulatory Services) by 4pm on the day before the meeting.

## 2. Who may ask a question and about what.

A person resident in Norfolk, or who is a non-domestic ratepayer in Norfolk, or who pays Council Tax in Norfolk, may ask at a public meeting of the Health and Wellbeing Board through the Chair any question within the terms of reference of the Health and Wellbeing Board about a matter for which the Board has collective responsibility or particularly affects the Board. This does not include questions for individual Board members where responsibility for the matter sits with the individual organisation.

## 3. Rules about questions.

- a) Number of questions - At any public Health and Wellbeing Board meeting, the number of questions which can be asked will be limited to one question per person plus a supplementary. No more than one question plus a supplementary may be asked on behalf of any one organisation. No person shall be entitled to ask in total under this provision more than one question, and a supplementary, to the Health and Wellbeing Board in any six-month period.
- b) Other restrictions - Questions are subject to a maximum word limit of 110 words. Questions that are more than 110 words will be disqualified. The total time for public questions will be limited to 15 minutes. Questions will be put in the order in which they are received.
- c) Supplementary questions - One supplementary question may be asked without notice and should be brief (fewer than 75 words and take less than 20 seconds to put). It should relate directly to the original question or the reply. The Chair may reject any supplementary question they do not consider compliant with this requirement.

## 4. Response.

The Chair shall exercise their discretion as to the response given to the question and any supplementary.

Not attending - If the person asking the question indicates they will not be attending the Board meeting, a written response will simply be sent to the questioner.

Attending - If the person asking the question has indicated they will attend, response to the questions will be made available at the start of the meeting and copies of the questions and answers will be available to all in attendance. The responses to questions will not be read out at the meeting.

Supplementary question - The Chair may give an oral response to a supplementary question or may require another Member of the Board or officer in attendance to answer it. If an oral answer cannot be conveniently given, a written response will be sent to the questioner within seven working days of the meeting.

Written response - If the person who has given notice of the question is not present at the meeting or if any questions remain unanswered within the 15 minutes allowed for questions, a written response will be sent within seven working days of the meeting.

## **5. Rejection of a question.**

The Assistant Director of Governance (Democratic and Regulatory Services) may reject a question if it:

- a) Is not about a matter for which the Board has collective responsibility or particularly affects the Board;
- b) Is defamatory, frivolous or offensive or has been the subject of a similar question in the last six months or the same as one already submitted under this provision;
- c) Requires the disclosure of confidential or exempt information, as defined in the Council's Access to Information Procedure Rules.

## **6 Standards Committee**

### **6.1 Composition**

The Standards Committee is composed of seven non-Cabinet Councillors appointed on a politically balanced basis.

### **6.2 Terms of reference**

1. The general functions of the Committee are to:
  - (a) promote and maintain high standards of conduct by Members and co-opted Members of the Council.
  - (b) assist Members and co-opted Members of the Council to observe the Council's Code of Conduct.
2. The specific functions of the Committee are to:
  - (a) advise the Council on the means of carrying out the general functions in para 1.
  - (b) advise the Council on the adoption and revision of codes of conduct for Members and officers.
  - (c) monitor the operation of the Council's Code of Conduct.
  - (d) advise and arrange training for Members of the Council and co-opted Members on matters relating to the Council's Code of Conduct for Members.
  - (e) arrange for Councillors and co-opted Members to receive dispensations to speak on, and participate in matters in which they have a prejudicial interest.
  - (f) convene sub-Committees of three non-Cabinet Council Councillors (drawn from at least two political parties and where possible, gender balanced) to hear complaints against Councillors relating to conduct, ethics and propriety referred to them by the Director of Governance. Such sub-Committees to have power to take no further action or such actions as are necessary and permitted under arrangements for dealing with standards allegations which are published on the Council's website.

## **7. Employment Committee**

### **7.1 Composition**

The Employment Committee is composed of seven Councillors appointed on a politically balanced basis but to include the Leader of the Council, the Deputy Leader of the Council and the Leader of the majority opposition group.

### **7.2 Terms of Reference**

1. To be responsible for the establishment of the Chief Officer structures of the Council and advise on the appointment of the Head of Paid Service\* and those officer roles defined in the appendix to the Officer Employment Procedure Rules together with pay arrangements if not in line with national negotiation procedures and current policy. This power includes the establishment of ad hoc Appointment Panels to discharge this function.

\* The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by an Appointment Panel appointed for this purpose by the Employment Committee.

2. To determine new material local terms and conditions of employment for employees that have a significant financial impact for the organisation or would impact on a significant part of the overall workforce as identified and advised by the Director for People and Head of Paid Service.
3. To be responsible for taking disciplinary action in respect of the Head of Paid Service, and other Chief Officers as required by legislation. This includes the establishment of ad hoc Disciplinary Action panels to discharge this function.

## **Part 8B: Committee procedure rules**

1. Time and place of meetings
2. Notice of meetings
3. Chair of meeting
4. Appointment of substitute Members of committees and sub-committees
5. Questions by the public at Committees
6. Questions by Members
7. Rules of debate
8. Minutes
9. Record of attendance
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11. Members' conduct
12. Disturbance by public
13. Interest of Members in contracts and other matters
14. Suspension and amendment of Committee Procedure Rules
15. Committees
16. Voting in Committees
17. Adjournment of committee meetings
18. Rights of other Members to attend committee meetings
19. Interpretation of Rules of Procedures



## **1. Time and place of meetings**

- 1.1 The time and place of meetings will be determined by the Assistant Director of Governance (Democratic and Regulatory Services) and notified in the summons.

## **2. Notice of meetings**

- 2.1 The Assistant Director of Governance (Democratic and Regulatory Services) will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules of the Constitution. At least five clear days before meetings, the Assistant Director of Governance (Democratic and Regulatory Services) will circulate to relevant Members the agenda for the meeting setting out the date, time and place of the meeting and specifying the business to be transacted.

## **3. Chair of meeting**

- 3.1 The person presiding at the meeting may exercise any power or duty of the chair.

## **4. Appointment of substitute members of committees**

- 4.1 Group Leaders can nominate all their members to be substitutes for appointed members of Committees and Sub-Committees, except in the case of regulatory committees where substitutes will be drawn from a nominated panel and in the case of the Planning regulatory Committee, trained members.
- 4.2 Notice of a substitution must be given by the appointed member or the relevant political assistant to the Assistant Director of Governance (Democratic and Regulatory Services) (through the appropriate committee clerk) indicating the name of the substitute, before the commencement of the particular meeting.
- 4.3 Cancellation of the intention to substitute will not be effective until notified by the appointed Member or the relevant political assistant before the commencement of the meeting. If, after advance notice has been given, the appointed Member is present when the meeting begins, the substitution will not have effect for that meeting.
- 4.5 If the appointed Member arrives when the meeting is in progress, the substitution will remain effective and the appointed Member will not be allowed to speak (except as a local Member on a matter affecting their Division) or vote. It is not possible to substitute for part of a meeting.
- 4.6 At the commencement of the meeting the Chair/Committee Clerk will inform the Committee/Sub-Committee of substitution(s).
- 4.7 Cabinet Members may not act as substitutes on the Scrutiny Committee.
- 4.8 Cabinet Members may only act as substitutes on the Standards Committee if they are substituting for a Cabinet Member who has been appointed to that Committee.

## **5. Questions by the public at committees**

- 5.1 A person resident in Norfolk, or who is a non-domestic ratepayer in Norfolk, or who pays Council Tax in Norfolk may ask at a meeting of the Scrutiny or Select Committees through the Chair any question on any matter in respect of the Committee's remit. Eligibility to ask questions does not extend to County Council employees asking questions relating to their employment.
- 5.2 The Assistant Director of Governance (Democratic and Regulatory Services) may reject a question if it:
- (a) Is not about a matter for which the Committee has responsibility;
  - (b) Is defamatory, frivolous or offensive or has been the subject of a similar question in the last 6 months or the same as one already submitted under this provision;
  - (c) Requires the disclosure of confidential or exempt information, as defined in the Council's Access to Information Procedure Rules

### **5.3 Notice of questions**

- 5.3.1 A question under this Rule may only be put if either:
- (i) At least 2 working days' notice of the question is given in writing to the Head of Governance and Regulatory Services; e.g. by 5.00 p.m. on the Wednesday preceding the Scrutiny or Select Committee meeting on Monday;
- or
- (ii) The question relates to urgent matters and it has the consent of the chair to whom the question is to be put, and the content of the question is given to the Assistant Director of Governance (Democratic and Regulatory Services ) by 9.30 a.m. on the day of the meeting.

### **5.4 Number of questions**

- 5.4.1 At any Scrutiny or Select Committee meetings, the number of questions which can be asked will be limited to one question per person plus a supplementary. No more than one question plus a supplementary may be asked on behalf of any one organisation. No person shall be entitled to ask in total under this provision more than one question and a supplementary in any six-month period.
- 5.4.2 Questions are subject to a maximum word limit of 110 words. Questions that are in excess of 110 words will be disqualified. The total time for public questions will be limited to 15 minutes. Questions will be put in the order in which they are received. A supplementary question may be asked without notice and should be brief (fewer than

75 words and take less than 20 seconds to put). It should relate directly to the original question or the reply. The Chair may reject any supplementary question they do not consider compliant with this requirement.

## **5.5 Response**

- 5.5.1 The Chair shall exercise their discretion as to the response given to the question and any supplementary. If the person asking the question indicates they will not be attending the Committee, a written response will simply be sent to the questioner. If the person asking the question has indicated they will attend, response to the questions will be made available in the Committee Room in writing before the start of the meeting and copies of the questions and answers will be available to all in attendance. The responses to questions will not be read out at the meeting. The Chair may give an oral response to a supplementary question or may require another Member or officer to answer it. If an oral answer cannot be conveniently given, a written response will be sent to the questioner within seven days of the meeting.
- 5.5.2 If the person who has given notice of the question is not present at the meeting or if any questions remain unanswered within the 15 minutes allowed for question, a written response will be sent within seven working days of the meeting.

## **6. Questions by Members**

- 6.1 A member of a committee may at any meeting of that committee ask through the chair any question within the terms of reference of the committee. In addition, any Member of the Council may at any committee meeting ask a question, make comments or raise issues on any significant matter affecting the Division of the Member within the committee's terms of reference.
- 6.2 Notice of questions
- 6.2.1 A Member may only ask a question under this Rule if either:
- (i) they have given at least 2 working days' notice of the question in writing to the Head of Governance and Regulatory Services; e.g. by 5.00 p.m. on the Wednesday preceding a Committee meeting on Monday;
  - or
  - (ii) The question relates to urgent matters and they have the consent of the chair to whom the question is to be put, and the content of the question is given to the Assistant Director of Governance (Democratic and Regulatory Services ) by 9.30 a.m. on the day of the meeting.
- 6.3 Number of questions

6.3.1 The number of questions which can be asked at a Committee meeting under this Rule will be limited to two per Member (or one question plus a supplementary). A Member who asks two substantive questions will not be entitled to ask any supplementaries. Substantive questions are subject to a maximum word limit of 110 words. Substantive questions that are in excess of 110 words will be disqualified. The total time for Member questions will be limited to 15 minutes.

## 6.4 Response

6.4.1 Responses to the substantive questions will be given to the questioner in writing before the start of the meeting and copies of the questions and answers will be available to all in attendance. The responses to substantive questions will not be read out at the meeting. A questioner who asks only one substantive question will be entitled to ask a supplementary question and if they do so, a response to it will be given orally by the Chair or such other Member or officer as is determined by the Chair. Supplementary questions are subject to a limit of 75 words. If a response to a supplementary question cannot conveniently be given orally, a written answer will be sent to the questioner within seven working days of the meeting.

6.4.2 If the Member who has given notice of the question is not present at the meeting or if any questions remain unanswered within the 15 minutes allowed for questions, a written response will be sent to the questioner within seven working days of the meeting.

## 7. Rules of debate

9.1 The Chair shall first explore through debate if there is a consensus on the views to be expressed by the Committee. If there is no consensus, the Chair will ask if any Member wishes to move a formal motion as to the view to be expressed by the Committee.

## 7.2 No debate or vote until motion seconded

7.2.1 No motion will be debated or voted upon after the mover has moved a proposal (other than a motion that the report of a committee or a recommendation within it be received and adopted) until the motion has been seconded.

## 7.3 Right to require motion in writing

7.3.1 Unless notice of the motion has already been given, the Chair may require it to be written down and handed to Them before it is discussed. The motion will be read out to the committee before any vote upon it is taken.

## 7.4 Secunder's speech

- 7.4.1 When seconding a motion or amendment, a Member may reserve their speech until later in the debate.
- 7.5 Content and length of speeches
- 7.5.1 Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the chair.
- 7.6 When a Member may speak again
- 7.6.1 A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except;
- (a) to speak once on an amendment moved by another Member;
  - (b) to move a further amendment if the motion has been amended since they last spoke;
  - (c) if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
  - (d) in exercise of a right of reply;
  - (e) on a point of order; and
  - (f) by way of personal explanation;
  - (g) to demand a recorded vote;
  - (h) to move the suspension of these procedural rules;
  - (i) to move a resolution under paragraph 7.10 of these Rules;
- 7.7 Amendments to motions
- 7.7.1 An amendment to a motion must be relevant to the motion and will either be:
- (i) to leave out words;
  - (ii) to leave out words and insert or add others; or
  - (iii) to insert or add words.
- as long as the effect of (i) to (iii) is not to negate the motion.
- 7.7.2 Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- 7.7.3 If an amendment is not carried, other amendments to the original motion may be moved.

- 7.7.4 If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- 7.7.5 After an amendment has been carried, the chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.
- 7.8 Alteration of motion
- 7.8.1 A Member may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- 7.8.2 A Member may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- 7.8.3 Only alterations which could be made as an amendment may be made.
- 7.9 Withdrawal of motion
- 7.9.1 A Member may withdraw a motion which they have moved with the consent of the seconder. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.
- 7.10 Motions which may be moved during debate
- 7.10.1 When a motion is under debate, no other motion may be moved except the following procedural motions:
- a. to withdraw a motion;
  - b. to amend a motion;
  - c. to postpone consideration of the motion;
  - d. to proceed to the next business;
  - e. that the question be now put;
  - f. to adjourn a debate;
  - g. to adjourn a meeting;
  - h. to exclude the public and press in accordance with the Access to Information Rules; and
    - (i) to not hear further a Member named under Rule 11.3 or to exclude them from the meeting under Rule 11.4.
    - (j) that the procedural rules be suspended

## 7.11 Closure motions

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

- (i) that consideration of the motion be postponed;
- (ii) to proceed to the next business;
- (iii) that the question be now put;
- (iv) to adjourn a debate; or
- (v) to adjourn a meeting.

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

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

7.11.4 If a motion to adjourn the debate or to adjourn the meeting or to postpone consideration of the meeting is seconded and the chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

Provided that a second motion to the same effect under this section will not be moved in reference to the same motion or amendment within a period of 20 minutes unless it is moved by the Chair.

## 7.12 Point of order

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

## 7.13 Personal explanation

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

## **8. Minutes**

### **8.1 Signing of the minutes**

- 8.1.1 The chair will sign the minutes of the proceedings at the next suitable meeting. The only part of the minutes that can be discussed is their accuracy and any question as to their accuracy must be raised by motion.

## **9. Record of attendance**

- 9.1 Each Member attending a committee meeting must, with a view to securing the recording of their attendance, sign the attendance sheet provided by the Assistant Director of Governance (Democratic and Regulatory Services) for that purpose. If any Member arrives after the attendance sheet has been circulated, they must intimate their presence to the Assistant Director of Governance (Democratic and Regulatory Services)

## **10. Members' conduct**

### **10.1 Speaking**

- 10.1.1 When a Member speaks at committee meetings, they must address the meeting through the chair, but may choose to either stand or remain seated.

### **10.2 Chair standing**

- 10.2.1 When the chair stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

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

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

### **10.4 Member to leave the meeting**

- 10.4.1 If the Member continues to behave improperly after such a motion is carried, the chair may adjourn the meeting for a specified period or move that the Member leaves the meeting. If seconded, the motion will be voted on without discussion. If the Member continues to behave improperly, the Chair may give such direction as they consider appropriate for the removal of the Member and the restoration of order.

### **10.5 General disturbance**



- 10.5.1 If there is a general disturbance making orderly business impossible, the chair may adjourn the meeting for as long as they think necessary.

## **11. Disturbance by the public**

### **11.1 Removal of member of the public**

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

### **11.2 Clearance of part of the meeting room**

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

## **12. Interest of Members in contracts and other matters**

- 12.1 Where the relevant Member has a Disclosable Pecuniary Interest in a matter to be considered at the meeting and that interest is on the Register of Interests, they must not speak or vote on the matter. If they have a Disclosable Pecuniary Interest in a matter to be considered at the meeting and that interest is not on their Register of Interests, they must declare that interest at the meeting and not speak or vote on the matter. In either case they may remain in the room where the meeting is taking place. If they consider that it would be inappropriate in the circumstances to remain in the room, they may leave the room while the matter is dealt with.
- 12.2 Where a matter arises at a meeting which relates to or affects an 'Other Interests', the relevant Member must declare the existence and nature of the interest unless it has been entered in the County Council's register of interests.
- 12.3 An 'Other' interest is one which affects, to a greater extent than others in their division, the relevant Member's:
- own wellbeing or financial position or
  - that of family or close friends
  - any body –
    - (a) exercising functions of a public nature
    - (b) directed to charitable purposes; or
    - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);
- of which the Member is in a position of general control or management
- 12.4 Where an 'other interest' arises, the relevant Member will declare an interest (an "Other Interest") but may speak and vote on the matter.
- .

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

### **13.1 Suspension**

- 13.1.1 All of these Rules except Rule 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 committee are present. Suspension can only be for the duration of the meeting. A motion to suspend any of these Rules must specify the Rule to be suspended and must be moved in terms limited to an explanation of the reasons for the suspension. It will be seconded in formal terms only and will be put to the committee without debate.
- 13.1.2 Any motion to add to, vary revoke these Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council, except where it is moved as part of the report of the Cabinet.

## **14. Committees**

- 14.1 References in these Rules to "Committees" include Scrutiny and Select Committees and other bodies except where those bodies have separately agreed arrangements.
- 14.2 Every Committee will continue in being until its successor is appointed. In the absence from a meeting of the chair and vice-chair, a chair for that meeting will be appointed.
- 14.3 The Chair of a committee may call a special meeting at any time. The summons to the special meeting will be issued by the Assistant Director of Governance (Democratic and Regulatory Services ) and will set out the business to be considered; and no business other than that set out in the summons will be considered at that meeting. Cancelling or changing the date or time of a scheduled meeting shall be determined by the Chair following consultation with Group Spokespersons.
- 14.1 The quorum of each committee will be at least 50 % of the committee membership unless otherwise specially provided for elsewhere in this Constitution.

## **15. Voting in committees**

- 15.1 Voting at a meeting of a committee will normally be by show of hands; but any Member may demand a recorded vote and, if one quarter of the Members constituting the committee signify their support such a vote will be taken.
- 15.2 If there are an equal number of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.
- 15.3 Where immediately after a vote is taken at a committee meeting any Member of that committee so requires, there will be recorded in the minutes of the proceedings of that meeting whether that person casts their vote for the motion or against the motion or whether they abstained from voting.

## **16. Adjournment of committee meetings**

- 16.1 When a committee adjourns, whether by resolution or by decision of the Chair, the adjournment will by decision taken at that time be to a date, time and place specified, provided that where this is not practicable and a meeting is adjourned for an unspecified period and/or to an unspecified place, all members of the committee will be notified of the new date, time and place when these have been determined.

## **17. Rights of other Members to attend committee meetings**

- 17.1 A Member of the Council who has moved a motion which has been referred to any committee will have notice of the meeting of the committee at which it is proposed to consider the motion. The Member will have the right to attend the meeting and if they attend will have an opportunity of explaining the motion.
- 17.2 Subject to the Access to Information Procedure Rules, a Member of the Council may attend a meeting of any committee of which they are not a Member but may not speak without the agreement of the Chair and may not vote.
- 17.3 A Member of the Council will have the right to attend any public meeting arranged by an officer or any meeting of a committee called to make any inspection of any site or works within their Electoral Division or which is to consider the making of any compulsory purchase order of land or buildings within such Division. The Member will have notice of any such meeting and, if they attend will, at the discretion of the Chair have the right to give their views.

## **18. Interpretation of rules of procedure**

- 18.1 The ruling of the Chair as to the construction or application of these Rules or as to any proceedings of the Committee will be final for the purposes of the meeting at which it is given.

## **7.2 Standards Committee**

The Council has established a Standards Committee to support the proper conduct of the Council's business by Members.

### **Standards Committee: Rules of Procedure for Hearings**

**This is the procedure for dealing with Standards Committee hearings. The Standards Committee has agreed a process for handling investigations into complaints that a member is in breach of the Code of Conduct. This process does not form part of the Constitution but is available on the Council's website [here](#):**

#### **Interpretation**

- 1 'Member' means the member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Member's nominated representative.
- 2 'Investigator' means the Monitoring Officer or other investigating officer and their nominated representative.
- 3 'Committee' also refers to 'a standards sub-committee' that may be considering the allegation against a Member.
- 4 'Legal Adviser' means the officer responsible for providing legal advice to the Standards Committee. This may be the Monitoring Officer, another legally qualified officer of the authority or someone appointed for this purpose from outside the authority.

#### **Representation**

- 5 The Member may be represented or accompanied during the meeting by a Solicitor, Counsel or, with the permission of the Committee, another person.

#### **Legal Advice**

- 6 The Committee may take legal advice from its legal adviser at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be shared with the Member and the investigator if they are present.

#### **Setting the Scene**

- 7 After all the Members and everyone involved have been formally introduced, the Chair should explain how the Committee is going to run the hearing.

#### **Preliminary Procedural Issues**

- 8 The Committee should then resolve any issues or disagreements about how the hearing

should continue, which have not been resolved during the pre-hearing process.

### **Making Findings of Fact**

- 9 After dealing with any preliminary issues, the Committee should then move on to consider whether or not there are any significant disagreements about the facts contained in the investigator's report.
- 10 If there is no disagreement about the facts, the Committee can move on to the next stage of the hearing (paragraph 18).
- 11 If there is a disagreement, the investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. With the Committee's permission, the investigator may call any necessary supporting witnesses to give evidence. The Committee should give the Member an opportunity to challenge any evidence put forward by any witness called by the investigator.
- 12 The Member should then have the opportunity to make representations to support their version of the facts and, with the Committee's permission, to call any necessary witnesses to give evidence.
- 13 At any time, the Committee may question any of the people involved or any of the witnesses and should allow the investigator to challenge any evidence put forward by witnesses called by the Member.
- 14 If the Member disagrees with most of the facts, it may make sense for the investigator to start by making representations on all the relevant facts, instead of discussing each fact individually.
- 15 If the Member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, good reasons must be given for not mentioning it before the hearing. If the investigator is not present, the Committee will consider whether or not it would be in the public interest to continue in the Investigator's absence. After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may then:
  - 15.1 continue with the hearing, relying on the information in the investigator's report;
  - 15.2 allow the Member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary; or
  - 15.3 postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if not already present.
- 16 The Committee will usually move to another room to consider the representations and evidence in private.
- 17 On their return, the Chair will announce the Committee's findings of fact.

### **Did the Member Fail to Follow the Code?**

- 18 The Committee then needs to consider whether or not, based on the facts it has found,

the Member has failed to follow the Code of Conduct.

- 19 The Member should be invited to give relevant reasons why the Committee should not decide that the Member has failed to follow the Code.
- 20 The Committee should then consider any verbal or written representations from the investigator.
- 21 The Committee may, at any time, question anyone involved on any point they raise in their representations.
- 22 The Member should be invited to make any final relevant points.
- 23 The Committee will then move to another room to consider the representations.
- 24 On their return, the Chair will announce the Committee's decision as to whether or not the Member has failed to follow the Code of Conduct.

#### **If the Member has not failed to Follow the Code of Conduct**

- 25 If the Committee decides that the Member has not failed to follow the Code of Conduct, the Committee can move on to consider whether it should make any recommendations to the authority.

#### **If the Member has failed to Follow the Code of Conduct**

- 26 If the Committee decides that the Member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the investigator and the Member as to:
  - 26.1 Whether or not the Committee should set a penalty; and
  - 26.2 What form any penalty should take.
- 27 The Committee may question the investigator and Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.
- 28 The Committee will then move to another room to consider whether or not to impose a penalty on the Member and, if so, what the penalty should be.
- 29 On their return, the Chair will announce the Committee's decision.

#### **Recommendations to the Authority**

- 30 After considering any verbal or written representations from the investigator, the Committee will consider whether or not it should make any recommendations to the authority, with a view to promoting high standards of conduct among Members.

## **The Written Decision**

- 31 The Committee will announce its decision on the day and, where possible, provide a short-written decision on that day. It will also need to issue a full written decision shortly after the end of the hearing. It is good practice to prepare the full written decision in draft on the day of the hearing, before people's memories fade.

## **Power to regulate own proceedings**

- 32 The Chair of a hearings sub-committee has the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter being dealt with at a meeting of the hearings sub-committee.

## **Press queries in relation to Standards matters**

- 33 Allegations about breaches of the County Council's Code of Conduct for Members may be referred to the Standards Committee. The County Council will only comment on such allegations to the extent of confirming (or not, as the case may be) statements put to the Council by the press.
- 34 There should be one spokesperson for the Standards Committee to whom all queries are directed from the Press. This would normally be through the Communications Team. Such an arrangement helps to ensure that a consistent message is given to the public.
- 35 To the extent that Member comment is appropriate, the Chair of the Committee will be the only Member who comments in the Press on cases about the Council's Code of Conduct for Members. In the Chair's absence this role will be taken on by the Vice-Chair. In either case, statements will be made with advice from the Communications Team and any release issued from that office in line with council practice.

### **(a) Press Notices**

- The findings of a Standards Committee will normally be published. Where the committee finds that a Member did not breach the code of conduct a notice will not be published if the Member objects.
- The notice will identify the Member concerned, the fact that they have been found to have breached the code, the details of that breach, the reasons for the committee's findings and specify the sanction imposed.
- Any press release from the Chair of the Standards Committee will confine itself to the issues that should be contained in the press notice. Where the committee finds that a Member did not breach the code of conduct a press release will not be issued if the Member objects. However, if asked, the Communications Team would confirm the outcome.

## **Part 9 – Joint Arrangements**

### **9.1 Arrangements to Promote Well-being**

The Council, in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of any person or body;
- (c) exercise on behalf of that person or body any functions of that person or body

### **9.2 Joint Arrangements**

The County Council has made joint arrangements with one or more other local authorities under Section 101(5) of the Local Government Act 1972 for the exercise of certain of its functions.

### **9.3 Joint Committees**

The County Council also appoints with those other authorities Joint Committees to exercise these functions. The membership, terms of reference and functions of these Joint Committees and the rules governing the conduct and proceedings of their meetings are set out below.

### **9.4 Delegation to and From Other Local Authorities**

- (a) The Council may delegate functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The decision whether or not to accept such a delegation from another Local authority shall be reserved to the full Council.

### **9.5 Joint Arrangements with Other Public Bodies**

Under Section 75 National Health Service Act 2006, Section 10 of the Children Act 2004 and the Health and Social Care Act 2012, local authorities, national health bodies and a number of other bodies have powers to delegate the exercise of some of their functions to each other and to co-operate in the exercise of their functions.

Under Sections 36 - 41 of the Counter Terrorism and Security Act 2015 the Council is required to lead a single Channel Panel for Norfolk covering the needs of both adults and children. Governance arrangements for the Channel Panel will be through the Norfolk Countywide Community Safety Partnership.



## **Joint Arrangements**

1. The County Council has established the joint arrangements described below and for this purpose has joined in appointing the following Joint Committees:

Norfolk Joint Museums Committee  
Norfolk Records Committee  
The Eastern Shires Purchasing Organisation  
PATROL  
Norfolk Parking Partnership  
The LGPS ACCESS Joint Committee  
Transport for Norwich Joint Committee  
Eastern Inshore Fisheries Company

each of which exercise functions of the County Council under Section 101(5) of the Local Government Act 1972.

2. The membership, terms of reference and functions of the Joint Committees and the rules governing the conduct and proceedings of their meetings and the public's right of access to these meetings are set out below:

### **3. Norfolk Joint Museums Committee**

#### **3.1 Membership**

Norfolk County Council  
Breckland District Council  
Broadland District Council  
Great Yarmouth Borough Council  
King's Lynn Borough Council  
North Norfolk District Council  
Norwich City Council  
South Norfolk District Council

The County Council appoints 9 members, Norwich City Council 3 members and the remaining Councils 1 member each.

This Committee has also established Area Committees for Breckland, Great Yarmouth, King's Lynn and West Norfolk, North Norfolk and Norwich, each with a constitution and terms of reference to be such as the Joint Committee and the Councils may agree. In default of agreement, the constitution shall consist of 4 County Councillors and 4 members appointed by the relevant District Council. The Area Committees have power to co-opt up to 5 non-voting members.

#### **3.2 Terms of Reference**

The Joint Museums Committee is responsible for:

- monitoring the effective operation of the Norfolk Museums and Archaeology Service within the available budget;

- advising all the participating Councils on the strategic framework for museums and archaeology in Norfolk;
- agreeing policies for the Norfolk Museums and Archaeology Service in accordance with national and local guidelines;
- acting as a forum for developing future strategy;
- agreeing the service plan in the light of the available annual budget; and
- receiving the minutes of the Norfolk Museums and Archaeology Service Board for information;

The Area Committees shall:

- provide a detailed view of local museums and archaeological issues;
- agree the local service plan within the available budget and county-wide service plan;
- advise on the terms of any Service Level Agreement (SLA) with Norfolk Museums and Archaeology Service;
- monitor the local SLA;
- recommend proposals to the Joint Committee, e.g. museums development projects; and
- agree an area museum strategy within the context of an approved Norfolk Museums and Archaeology Service strategy as far as possible to be consistent with and complementary to all other relevant strategies, e.g. heritage, leisure, tourism, arts, economic development;

### 3.3 Functions

The Joint Museums Committee exercises the functions of the participating local authorities under Section 12 of the Public Libraries and Museums Act 1964 with regard to the provision and maintenance of museums and art galleries in their areas, except to the extent specifically provided for in the current agreement constituting the Committee dated 6 January 1999.

The functions of the Area Committees are set out under (ii) above.

### 3.4 Rules governing the conduct and proceedings of meetings

The conduct and proceedings of meetings of the Joint Museums Committee are governed by the rules relating to meetings of County Council Committees (see Appendix 8).

The standing orders of the relevant District Council apply to meetings of the Area Committees.

### 3.5 Rules relating to access to meetings

The right of the public to attend meetings of the Joint Museums Committee are set out in the Access to Information Procedure Rules in Part 11A.

Rights of the public to attend meetings of the Area Committees are governed by the rules of the relevant District Councils.

## **4. Norfolk Records Committee**

### **4.1 Membership**

Norfolk County Council  
Breckland District Council  
Broadland District Council  
Great Yarmouth Borough Council  
King's Lynn Borough Council  
North Norfolk District Council  
Norwich City Council  
South Norfolk District Council

The County Council and the City Council appoints 3 members each and the remaining District Councils 1 member each.

There are also non-voting members as follows:

Custos Rotolorum  
A representative of the Bishop of Norwich  
A representative of the Norfolk Records Society  
3 co-opted members.

### **4.2 Terms of Reference**

The Norfolk Records Committee has the responsibility for carrying out the functions of the participating local authorities under the Local Government (Records) Act 1962 and for the control of the Norfolk Records Office with a view to ensuring as far as possible that:

- (a) storage and maintenance facilities are provided to it for archives relating to or deriving from the areas of the participating local authorities; and
- (b) there is at the Record Office an adequate means of reference to the archives and facilities are provided for the public to inspect and take copies of deposited documents

### **4.3 Functions**

The Norfolk Records Committee exercises functions of the participating local authorities under the Local Government (Records) Act 1962.

### **4.4 Rules governing the conduct and proceedings of meetings**

The conduct and proceedings of meetings of the Norfolk Records Committee are governed by the rules relating to the meetings of County Council Committees (see Appendix 8).

### **4.5 Rules relating to access to meetings**

The rights of the public to attend meetings of the Norfolk Records Committee are set out in paragraph 2 of the Access to Information Procedure Rules in Appendix 8.

## **5. Eastern Shires Purchasing Organisation (ESPO)**

### **5.1 Membership**

Cambridgeshire County Council  
Leicestershire County Council  
Lincolnshire County Council  
Norfolk County Council  
Peterborough City Council  
Warwickshire County Council

each represented at meetings of ESPO's Management Committee by 2 members.

### **5.2 Terms of Reference**

The objectives of ESPO are:

- (a) to improve the purchasing performance of its customers by making available to them a comprehensive professional purchasing service.
- (b) to maintain effective, efficient and commercially viable arrangements for the supply of goods and services by:
  - i. negotiating terms for the supply of goods, materials and specialist services;
  - ii. purchasing, storing and distributing items in common use where this is practicable and cost effective;
  - iii. advising on standards, specifications, etc and such matters as EU procurement legislation;
  - iv. providing professional and technical expertise;
  - v. providing specialist services as required;
  - vi. investigating areas for joint purchasing.
- (c) to achieve overall cost savings for member Councils by providing customers with a simple, effective system for the supply of goods whilst preserving full public accountability.

### **5.3 Functions**

ESPO exercises the functions of the participating local authorities associated with the purchase and supply of goods, materials and services.

### **5.4 Rules governing the conduct and proceedings of meetings**

The rules of the Council which services ESPO apply. The servicing Council is currently Leicestershire County Council.

### **5.5 Rules relating to access to meetings**

The rules contained in Part VA of the Local Government Act 1972 apply.

## **6. Parking and Traffic Regulation Outside London Adjudication Joint Committee (PATROL)**

## 6.1 Membership

The membership comprises a number of parking authorities across the country, including the County Council and Norwich City Council. The list of members grows as other parking authorities join this scheme. Each participating authority is represented at meetings of the Joint Committee by one representative.

## 6.2 Terms of Reference

The objective of PATROL is to achieve:

- (a) a fair parking adjudication service for Appellants including visible independence of Adjudicators from the parking authorities in whose areas they are working;
- (b) consistency of adjudication across the service;
- (c) a cost effective and equitable adjudication service for all parking authorities in England and Wales in relation to whose area the Secretary of State has made an Order under paragraph 1(1) and 2(1) of Schedule 3 to the Road Traffic Act 1991;
- (d) flexibility to deal with a wide range of local authorities with varying levels of demand for adjudication.

## 6.3 Functions

The general function of PATROL is to provide an adjudication service for parking authorities who have obtained Orders from the Secretary of State which decriminalise parking enforcement arrangements within their area. In this respect, NPASJC has a range of specific functions which are detailed in the Agreement constituting it.

## 6.4 Rules governing the conduct and proceedings of meetings

These are set out under Schedule 5 of the Memorandum of Participation in PATROL to which the Council is a party.

## 6.5 Rules relating to access to meetings

The rules contained in Part VA of the Local Government Act 1972 apply.

# 7. **Norfolk Parking Partnership Joint Committee**

## 7.1 Membership

Norfolk County Council  
Great Yarmouth Borough Council  
King's Lynn and West Norfolk Borough Council  
South Norfolk District Council

Each Council shall be represented by one member, appointed by the respective Council. The Chair of the Joint Committee shall be the member for the County Council.

## 7.2 Roles and Responsibilities

The detailed roles and responsibilities are set out in the Joint Committee's Terms of Reference. They include:

- To carry out through the Councils the functions as laid down in the legal Agreement for the Joint Provision of Civil Parking Enforcement Services and the Functions currently in force.

### 7.3 Scrutiny Arrangements

Each Council will undertake its own scrutiny role, as appropriate.

### 7.4 Administration

Meetings of the Joint Committee shall be held in public and its agendas and minutes will be published in accordance with the County Council's usual procedures.

## 8. **LGPS Access Joint Committee**

### 8.1 Membership

Norfolk County Council  
Cambridgeshire County Council  
East Sussex County Council  
Essex County Council  
Hampshire County Council  
Hertfordshire County Council  
Isle of Wight Council  
Kent County Council  
Northamptonshire County Council  
Suffolk County Council  
West Sussex County Council

Each Council should be represented by one member of the respective Council. In Norfolk's case this will normally be the Chair of the Pensions Committee

### 8.2 Roles and Responsibilities

These are set out in the Joint Committee's terms of reference contained in the Inter-Authority Agreement. They include procuring and managing an operator, appointing professional advisors and making recommendations to the Councils concerning Pool Assets

### 8.3 Administration

The Constitution of the Joint Committee is set out in the Inter-Authority Agreement entered into in July 2017.

## 9. **Transport for Norwich Joint Committee**

### **Membership**

Norfolk County Council  
Norwich City Council

Broadland District Council  
South Norfolk District Council  
New Anglia LEP (private sector representative from the LEP Board with a Greater Norwich connection)

The County Council appoints 4 members (one of whom will be the Cabinet Member with responsibility for transport), Norwich City Council 2 members and the remaining bodies 1 member each.

Members will be able to nominate a substitute member from their local authority to attend meetings on their behalf, and the substitute member will be able to vote.

The Joint Committee will be Chaired by the Cabinet Member with responsibility for transport.

All members of the Joint Committee will have one vote each, and the Chair will the casting vote.

A quorum for the meeting will be 6 members.

### **Terms of reference**

The Transport for Norwich Joint Committee is responsible for:-

- Developing business cases for funding, including development of individual Transforming Cities Fund schemes
- Overseeing the development and delivery of Transforming Cities Fund schemes, including carrying out and considering the results of public consultation and setting the timetable for delivery of schemes
- Providing advice and guidance on the development of the Transport for Norwich Strategy and its Action Plan.
- Overseeing development and delivery of significant work identified in TfN Strategy Action plans and providing guidance on how outcomes shape longer term interventions.

The Joint Committee shall:

- Make recommendations to the County Council's Cabinet on the direction of TfN strategy
- Make recommendations to the relevant delivery partner on the scope of work carried out under the TfN Strategy action plan
- Make recommendations on the outcome and delivery of work undertaken through the TfN Strategy Action plans.
- Make recommendations to the County Council's Cabinet on funding bids, including business cases
- Ensure that schemes are developed which deliver the objectives agreed as part of any business cases
- Ensure schemes are delivered within the available funding

**Rules governing the conduct of proceedings of meetings**

Save as for provided here the meetings of the Joint Committee are governed by the rules relating to meetings of Norfolk County Council Committees.

**Rules relating to access to meetings**

Meetings of the Joint Committee shall be held in public and its agendas and minutes will be published in accordance with the County Council's usual procedures.



## **Part 9A: Procedure for appointing Members to serve on internal and external bodies**

### **1. Internal Bodies**

- 1.1 In addition to the committees, sub committees and joint committees set out in Appendices 2, 2A and 4, the Council also establishes and appoints to a number of panels/boards/working groups. Save for appointments reserved to Full Council, the Council has delegated authority to appoint to these bodies to the Leader of the Council.
- 1.2 Having consulted with the Group Leaders, at the first ordinary meeting of the Council's Cabinet of the municipal year and throughout the year, the Council's Leader shall confirm appointments to these bodies. The Leader shall keep under review, making substitutions and further appointments as the need arises from resignations or changes made to these bodies as through changes approved the Constitution by Full Council.
- 1.3 Having consulted with the Group Leaders, at the first ordinary meeting of the Council's Cabinet of the municipal year and throughout the year, the Council's Leader shall also keep under review the continued appropriateness of Member Champions and to make appointments.

### **2. External Bodies**

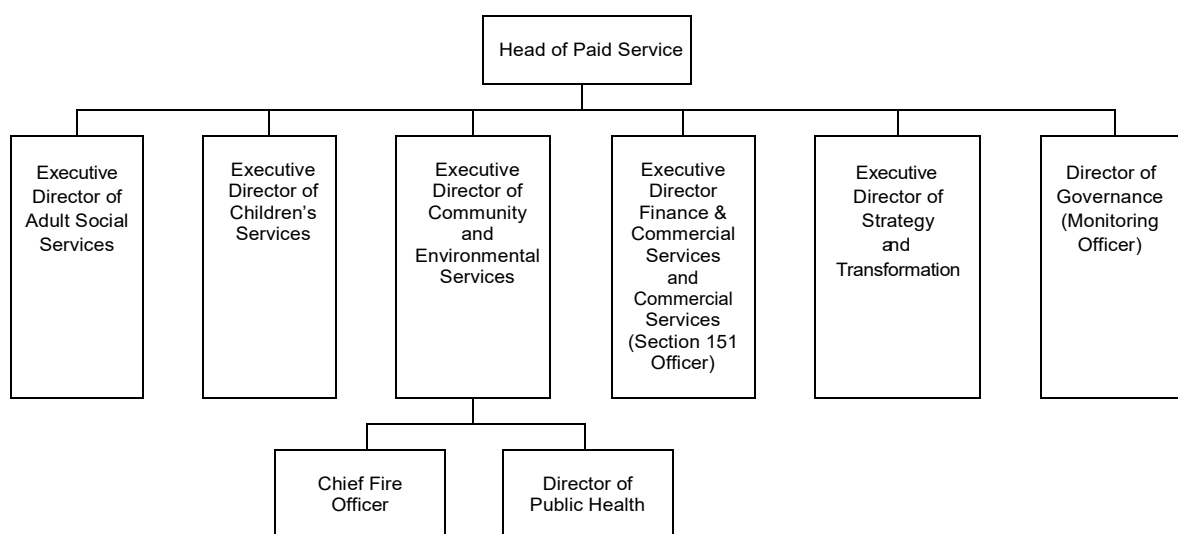
- 2.1 The Council is represented on several external organisations. This reflects the Council's community leadership role. The Council has delegated authority to appoint to these bodies to the Leader of the Council. Guidance for serving on outside bodies will be provided to those Members appointed or interested in being appointed to external organisations.
- 2.2 Having consulted with the Group Leaders, at the first ordinary meeting of the Council's Cabinet of the municipal year and throughout the year, the Council's Leader shall confirm appointments to these bodies. The Leader shall consider any new request for the Council to appoint to an outside body and any changes to appointments that may be required such as arising from a Member resigning their position as the Council's representative.

## Part 10 - Officers

### 10.1 Norfolk County Council Corporate Management Structure

Statutory and non-statutory Chief Officers, the Monitoring Officer and the Section 151 Officer (Chief Finance Officer)

A more detailed structure chart showing posts down to third tier is published on the Open Data page of the County Council's Internet site



### Management Structure

- (a) **General.** The Council engages such officers as it considers necessary to carry out its functions including the following Statutory Officers: -

Head of Paid Service (Functions currently undertaken by Executive Director of Community and Environmental Services)

Chief Finance Officer (Functions undertaken by Executive Director, Finance and Commercial Services)

Monitoring Officer (Functions undertaken by Director of Governance)

Director of Children's Services (Functions undertaken by Executive Director of Children's Services)

Director of Adult Social Services (Functions undertaken by Executive Director of Adult Social Services)

Executive Director of Community and Environmental Services

Executive Director of Strategy and Transformation

Chief Fire Officer

Director of Public Health (DPH)

Director of Governance

- (b) **Structure.** The number and responsibilities of Chief Officers are determined by the Council on the advice of the Head of Paid Service. The Head of Paid Service is accountable to the Executive and to the Council on the manner in which the discharge of the Council's functions is coordinated. A description of the overall departmental structure of the Council showing the management structure and deployment of officers is set out in Appendix 25.
- (c) **Head of Paid Service and Chief Officers.** The most senior posts in the structure are designated as the Head of Paid Service and Chief Officers. They are responsible for the day-to-day managerial and operational decisions within the Council and provide support to all Members in their several roles.
- (d) **General Role**

The roles of the Head of Paid Service and Chief Officers are:

- (i) to support and advise the Council, Executive, Scrutiny Committees and other Committees on policy and service delivery in order that Members' decisions are well informed.
- (ii) to ensure that the policies and decisions of the Council and Executive are formulated and delivered effectively and efficiently
- (iii) to provide strong managerial leadership and direction, foster cross-departmental working and implement organisational improvement
- (iv) to set high standards and drive up the performance, effectiveness and reputation of the Council

(v) to work with outside bodies and access additional funds and resources in order to support the Council's programmes of work

(vi) to recruit, develop, motivate and inspire staff

**(e) Specific roles**

The specific roles of the Head of Paid Service and the individual Chief Officers are:

<b>Chief Officer</b>	<b>Role</b>
<b>Head of Paid Service</b>	Overall corporate management and operational responsibility. Provision of professional advice and support to Members of the council. Representing the council on external and partnership bodies.
<b>Executive Director of Community &amp; Environmental Services</b>	Functions focussed generally on ensuring support and environment which supports residents, visitors and businesses to be safe and well. Public Health, Environment, Waste, Highways infrastructure and maintenance, Transportation, Growth and Development, Planning, Fire and Rescue, Trading Standards, Emergency Planning, Customer Services, Cultural Services, Adult Education, Libraries, Equality and Diversity.
<b>Executive Director of Children's Services</b>	Statutory functions in respect of Children's Services. Education of children and young people. Children's Early Help, Social and Welfare Services for Children and vulnerable young people.
<b>Executive Director of Adult Social Services</b>	Statutory functions in respect of Adult Social Services, Adult Social Work, Integrated Health and Social Care, Commissioning.
<b>Executive Director, Finance and Commercial Services</b>	Statutory responsibilities of the Chief Finance Officer (Section 151 officer) Budgeting and Financial Management, Exchequer Services, Pensions, Investment and Treasury Management, Risk & Insurance, Property, Audit. IMT and Procurement and Transactional Services.
<b>Executive Director, Strategy &amp; Transformation</b>	HR, Communications, Intelligence and Analytics and Strategy.
<b>Director of Governance</b>	Nplaw, Governance & Regulatory Services.

**(f) Head of Paid Service, Monitoring Officer and Chief Financial Officer.** The Council has designated the following posts as shown:

- Head of Paid Service: Executive Director of Community and Environmental Services
- Chief Finance Officer: Executive Director, Finance and Commercial Services
- Monitoring Officer: Director of Governance

These posts will have the functions described in Part 9.2 to 9.4 below.

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

- (1) The Head of Paid Service has the following roles:
  - (a) overall corporate management and operational responsibility (including overall management responsibility for all staff).
  - (b) the provision of professional advice to all parties in the decision-making process (the executive, scrutiny, full Council and other committees).
  - (c) together with the Director of Governance, responsibility for a system for record keeping for all the local authority's decisions (executive or otherwise).
  - (d) representing the Council on partnership and external bodies (as required by statute or the Council).
- (2) The Head of Paid Service will report to the Council on:
  - (a) the manner in which the discharge by the authority of its functions is co-ordinated.
  - (b) the number and grades of staff required by the authority for the discharge of its functions.
  - (c) the organisation of the authority's staff.
  - (d) the appointment and proper management of the authority' staff.

## **10.3 Functions of the Director of Governance as Monitoring Officer**

As Monitoring Officer, the Director of Governance will:

- a) Maintain an up-to-date version of the Constitution and will ensure through the Assistant Director of Governance (Democratic and Regulatory Services )it is widely available for inspection by Members, officers and the public.
- b) After consulting with the Head of Paid Service and the Chief Finance Officer report to the full Council, or to the Executive in relation to an executive function, if they consider that any proposal, decision or omission would give, is likely to give, or has given, rise to a contravention of any enactment or rule of law, or any maladministration or injustice. Such a report has the effect of stopping the proposal or decision being implemented until the report has been considered.

- c) Contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- d) Ensure that records of executive decisions, including the reasons for those decisions and relevant officer reports and background papers, are made publicly available.
- e) Advise whether decisions of the executive are in accordance with the Budget and Policy Framework.
- f) Provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Members.
- g) Establish and maintain the register of Members' interests described in Appendix 17 and ensures it publicity and updating.

Appendix 29 is a protocol which explains the role and function of the Monitoring Officer and the arrangements agreed by the County Council for ensuring the role is effectively carried out.

#### **10.4 Functions of the Executive Director, Finance and Commercial Services as Chief Finance Officer**

As Chief Finance Officer the Executive Director, Finance and Commercial Services will:

- a) After consulting with the Head of Paid Service and the Director of Governance, report to the full Council, or to the Executive in relation to an executive function, and the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.
- b) Have responsibility for the administration of the financial affairs of the Council and be the Section 151 Officer.
- c) Maintain an adequate and effective internal audit.
- d) Contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- e) Provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Members and will support and advise Members and officers in their respective roles.
- f) Provide financial information about the Council to Members of the Council, the media, members of the public and the community.

#### **10.5 Duty to Provide Sufficient Resources to the Head of Paid Service, Monitoring Officer and Chief Finance Officer**

The Council will provide the Head of Paid Service, Chief Finance Officer and Director of

Governance with such officers, accommodation and other resources as are in the opinion of the relevant officer sufficient to allow their statutory duties to be performed.

## **10.6 Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 3D.

## **10.7 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 10A.

## **Part 10A: Officer Employment Procedure Rules**

These rules incorporate the standing orders required by Regulation 3(1) and Part II of Schedule 1 and Regulation 6/Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001.

### **1. Recruitment and appointment (general)**

#### **1.1 Declarations**

- The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of any existing Councillor or officer of the Council; or of the partner of such persons. Every Member and Senior Officer of the Council must disclose to the Head of Paid Service any relationship known to them to exist between themselves and any person whom they know is a candidate for an appointment under the Council. The Head of Paid Service or Chief Officer must bring any such disclosure to the attention of the Chair of the Employment Committee.
- No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by them.

#### **1.2 Seeking support for appointment**

- Subject to paragraph (iii) the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- Subject to paragraph (iii) no Councillor will seek support for any person for any appointment with the Council.
- Nothing in paragraphs (i) and (ii) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

### **2. Recruitment of Head of Paid Service and Senior Officers**

For the purposes of this Part of the Constitution, a list of Senior Officers is provided in Part A of the Appendix.

Where the Council proposes to appoint the Head of Paid Service or a Senior Officer and it is not proposed that the appointment will be made exclusively from among their existing officers, the Director for People will: -

- (a) draw up a statement specifying:



- the duties of the officer concerned; and
  - any qualification or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

### **3. Appointment of Head of Paid Service**

- (a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by an Appointment Panel appointed for this purpose by the Employment Committee. The Appointment Panel must interview all qualified applicants for the post or select a short list of such qualified applicants and interview those included on the short list. The Panel must be politically balanced but will not count in the overall allocation of seats to political groups because of its ad-hoc nature.

### **4. Appointment of Senior Officers**

- (a) An Appointment Panel will appoint Senior Officers. The Panel will be appointed for this purpose by the Head of Paid Service in consultation with the Group Leaders and must be politically balanced. The Panel may comprise or include some or all the members of the Employment Committee.

### **5. Other Appointments**

- (i) The appointment of officers other than as provided above, and other than assistants to political groups, is the responsibility of the Head of Paid Service or their nominee and may not be made by Councillors. In this respect they have arranged for Chief Officers to exercise this function in respect of such staff within their Department (see para 12 of the table below).

It may be appropriate in some cases for Members to meet candidates in an informal environment. It may also be appropriate in limited circumstances for the relevant Committee Chair to speak with the head of department about the person specification prior to the post being advertised.

A list of posts for which such informal arrangements would be appropriate is provided in Part B of the Appendix.

- (ii) The recruitment of assistants to political groups will be carried out in accordance with the Council's proper processes but appointments will be made in accordance with the wishes of the political group to which the post has been allocated.

**6. Disciplinary action in respect of the Head of Paid Service, Chief Finance Officer and Monitoring Officer:**

Any disciplinary action in respect of the Head of Paid Service, Chief Finance Officer and Monitoring Officer will comply with the Local Authorities (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

**7. Disciplinary action in respect of Senior Officers**

- (a) The Head of Paid Service will be responsible for taking disciplinary action in respect of Senior Officers including their dismissal.
- (b) The Council's Disciplinary Procedure will apply, except in the case of disciplinary action in respect of the Chief Finance Officer or Monitoring Officer. The Head of Paid Service will consult the Director of People and the Director of Governance as to any disciplinary process or proposed disciplinary action relating to Senior Officers.

**8. Disciplinary action in respect of other staff**

Disciplinary action against or the dismissal of other staff will only be taken by the Head of Paid Service or their nominee. In this respect they have arranged for Chief Officers to exercise these functions in respect of such staff within their Departments (see para 8 of the table below).

Councillors will not be involved in disciplinary action against or the dismissal of any officer except (a) as provided in the Regulations referred to in Section 6 above, (b) where such involvement is necessary for any investigation or inquiry into alleged misconduct, in the case of political assistants (where such action will be taken after consultation with the relevant Group Leader).

**9. Officers delegated powers in respect of staffing matters**

- The Council has arranged for Chief Officers and the Director for People to take the decisions in respect of the employment of officers set out in the table below. In addition, Chief Officers may authorise officers in their Departments to exercise the powers set out in the table on their behalf.
- In addition, Managers are authorised to make other day to day operational decisions on the management of their staff in accordance with the relevant procedures and conditions of employment, taking advice from the Director for People and any other specialist advisers as necessary.

<b>Powers Delegated</b> <b>Salaries and Wages and General Conditions of Service</b>	<b>Chief Officer(s)</b> <b>Exercising Powers Delegated</b>
1. To implement national agreements, except discretionary clauses not related to previous decisions taken by committees.	Director for People, and appropriate Chief Officer(s).
2.To determine gradings of posts (other than Senior Officer posts and reviews involving significant numbers of posts or where the changes give rise to significant cost implications).	For employees subject to the Conditions of Service of the National Joint Council for Local Government Services, the Director for People in accordance with grading policy and arrangements agreed as part of Modern Reward Strategy.  For other categories of employees, the relevant Chief Officer subject to the Chief Officer consulting the Director for People.
3. To adjust locally agreed rates of pay provided any proposed adjustment follows closely adjustment agreed to national rates which existed prior to the local determination.	Director for People
4.To determine annual pay awards for Centrally Employed Teachers within the framework provided by the national School Teachers' Pay and Conditions Document	Executive Director of Children's Services, in consultation with the Director for People.
5. To exercise discretionary powers with regard to the Local Government Pension Scheme, within the policy framework agreed by the County Council.	Director of Governance, with Director for People.
6. To determine pay awards for Coroners within the framework provided by the national Joint Negotiating Committee for Coroners.	Assistant Director of Governance (Democratic and Regulatory Services )in consultation with Director for People.

Miscellaneous Staffing Matters	
7. To recognise the contribution of staff over and above their contracted role in accordance with the Council's Recognition policy.	Director for People
8. To reimburse in whole or part, as considered appropriate, but subject to a maximum amount of <b>£2,500</b> , the amount of any fines and necessary legal costs incurred by employees in relation to Council business, where an infringement of the criminal law is alleged without any personal fault on the part of the employee concerned.	Appropriate Chief Officer in consultation with the Director of Governance.
9. To make loans to employees for the acquisition of houses in accordance with an approved scheme.	Director for People in consultation with Executive Director Finance & Commercial Services & Commercial Services
10. In consultation with all Party Leaders, to enhance the maximum amount payable under the relocation scheme up to £15,000 if it is considered necessary in order to be able to make an effective appointment.	Director for People.

### Part A

Senior Officers for the purposes this section of the Constitution:

Executive Director of Children's Services  
Executive Director of Adult Social Services  
Executive Director of Community and Environmental Services  
Executive Director Finance & Commercial Services and  
Commercial Services Executive Director of Strategy and  
Governance  
Director of Public Health  
Chief Fire Officer  
Director of Governance and Monitoring  
Officer  
Head of Communications

This list will be updated from time to time to reflect changes to posts.

### Part B

Members may be involved informally with the appointment of officers who report directly to Executive Directors and who have a lead role for a service.

Or

Members may be informally involved in appointments to the following posts

Lead Officers responsible for:

Adult Social Work and Health:

- Early Help and Prevention
- Social Work
- Commissioning
- Service Delivery

Children's Services:

- Education
- Children's Social Work
- Early Help
- Quality and performance

CES:

- Highways
- Transport
- Cultural Services
- Environment
- Planning
- Economic Development

Finance and Commercial Services:

- Property
- Budgeting and Financial Management
- Pensions Management and Treasury

Strategy and Transformation

- Human Resources
- Communications
- Intelligence and Analytics
- Strategy

## Part 10B: 'Proper Officer' provisions

Local Government legislation from time to time requires local authorities to appoint "Proper Officers" for specific purposes.

The officers listed in the third column of the table below have been designated by the Council as the Proper Officers for the functions listed against their name in the first and second columns:

<b>Section/Act</b>	<b>Functions</b>	<b>Proper Officer</b>
Section 234 of the Local Government Act 1972 (referred to below as the 1972 Act)	signing notices, orders and other documents	The Chief Officer or other officer responsible for the function which is the subject of the document. If there is no such officer, then the Head of Paid Service.
Section 83 (1) - (4) of the 1972 Act	Witness and receipt of declaration of acceptance of office	Head of Governance and Regulatory Services
Section 84 of the 1972 Act	Receipt of declaration of resignation	Head of Governance and Regulatory Services
Section 88 (2) of the 1972 Act	To convene meeting of County Council to fill vacancy in office of Chair	Head of Paid Service
Section 89 (1) (b) of the 1972 Act	Receipt of notice of casual vacancy from two local government electors	Head of Paid Service
Paragraph 4 (2) (b) and	Signature of summons to attend meetings	Head of Paid Service
Paragraph 4 (3) of Schedule 12 to the 1972 Act	Receipt of notices regarding address to which summons to meeting to be sent	Head of Paid Service

Local Government (Committees and Political Groups) Regulations 1990	Notification of political groups	Assistant Director of Governance (Democratic and Regulatory Services )
Section 35, Representation of the People Act 1983	Returning Officer for County Council elections	Assistant Director of Governance (Democratic and Regulatory Services )
Coroners & Justice Act 2009	Appointment of Coroner	Head of Governance and Regulatory Services
Section 146 (1) (a) & (b) of the 1972 Act	Declaration and certificates in respect of securities	Head of Governance and Regulatory Services
Section 210 (6) and (7) of the 1972 Act	Charity functions of holders of offices with existing authorities transferred to proper officer, if no equivalent officer	Assistant Director of Governance (Democratic and Regulatory Services )
Section 225 (1) of the 1972 Act	Deposit of documents – except documents deposited under Section 146 (6) and (7) of the Town and Country Planning Act 1990	Assistant Director of Governance (Democratic and Regulatory Services )
Section 229 (5) of the 1972 Act	Certificate of photographic copies of documents	Assistant Director of Governance (Democratic and Regulatory Services )
Section 236 (10) of the 1972 Act	To send copies of bylaws to each District Council in the County	Assistant Director of Governance (Democratic and Regulatory Services )
Section 238 of the 1972 Act	Certification of bylaws	Assistant Director of Governance (Democratic and Regulatory Services )
Section 41 of the Local Government (Miscellaneous Provisions) Act 1976	Certification of reports and minutes	Assistant Director of Governance (Democratic and Regulatory Services )



Section 115 (2) of the 1972 Act	Receiving monies due from officers of the Council	Executive Director Finance & Commercial Services
Section 228 (3) of the 1972 Act	Inspection of Accounts	Executive Director Finance & Commercial Services
Section 191 of the 1972 Act	Function with respect to Ordnance Survey	Executive Director of Community and Environmental Services
Paragraph 28 of Schedule 16 to the 1972 Act	Receipt of deposit of lists of protected buildings	Executive Director of Community and Environmental Services
Section 59 (1) of the Highways Act 1980	Issuing certificates in respect of expenses due to extra-ordinary traffic	Executive Director of Community and Environmental Services
Section 205 (4) and Section 211 of the Highways Act 1980	Consultation with District Councils where improvement of private streets includes sewerage and making final appointments in respect of private street works	Executive Director of Community and Environmental Services

In addition, any reference in any legislation passed before or during the 1971 - 72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26 October 1972 to the Clerk to the Council which, by virtue of any provision of the said Act, is to be construed as a reference to the Head of Paid Service.

## **Part 10C: Scheme of Delegated Powers to Officers**

### **1. General conditions applying to all delegated decisions**

1.1 Chief Officers (which for the purpose of this Scheme includes the Heads of Service listed in Section B of this Scheme) are authorised within the scope of this Scheme to exercise the powers and duties of the County Council in relation to the service and activities for which they are responsible, and the professional and managerial responsibilities of their posts. They are accountable to the elected Members of the County Council for the efficient and economic discharge of these responsibilities. Members are accountable to the public and are responsible for all major matters which impact upon the public in the course of the County Council exercising its powers and duties.

1.2 Subject to the provisions of this Scheme, but without otherwise limiting the scope of paragraph 1, the powers delegated to Chief Officers include:

- b. issuing and serving statutory notices
- c. granting any licence, consent, approval, permission certificate or authorisation with or without conditions, or their refusal
- d. fixing, varying, deferring and waiving charges and similar payments (and associated conditions) which the County Council is entitled to impose
- e. signing documents
- f. authorising entry onto land
- g. inspecting land and premises and things on premises
- h. making grants (subject to any limitations imposed by Members in Council or Committee)
- i. making Statutory Orders and Schemes
- j. instituting criminal proceedings
- k. declaring land to be surplus to the requirements of their service
- l. delivering the approved capital programme for their service

In addition, the Senior Trading Standards Officers listed in Section B of this Scheme have the specific powers to institute legal proceedings they're referred to.

- 1.3 Officers can only act within delegated powers and these are exercisable subject to:
- a. strategies, policies, priorities and Financial Regulations determined by the Members of the County Council;
  - b. referral to the Executive for consultation or decision on all matters of public controversy or undecided matters of policy or substantial change from previous practice or which involve difficult or major issues where custom and practice or initial consultation with elected Members indicates that such referral should take place;
  - c. compliance with the law and all policies, Regulations, Orders, codes, protocols, and similar documents approved by Council, the Leader, the Cabinet, or a relevant Committee;
  - d. consultation with appropriate officers and proper regard to any advice given;
  - e. other specific delegations in this Scheme or similar documents to another officer;
  - f. decisions by the Head of Paid Service or the Monitoring Officer on whether Chief Officers should exercise any delegated power;
- 1.4 In addition to the constraints referred to above, there are exceptions to all officers' delegated powers. In particular, there is no delegation to officers of:
- a. matters specifically reserved to the Council, the Leader, the Cabinet or a Committee;
  - b. approval to exceed the provision in the revenue or capital budgets for their service responsibilities; (subject to the rules on virement contained in the Financial Regulations in Appendix 15);
  - c. decisions on permanent savings in the budget to achieve the Council's policies;
  - d. the making of an Order for the compulsory acquisition of land;
  - e. the right to determine a major employee reorganisation;
  - f. Any key decision falling within the definition set out in Part 10.3 which: -
    - recommends a budget to the full Council
    - proposes an amendment to the Council's Policy Framework (as defined in the Constitution)
    - involves the adoption of any other policy or a works programme
    - involves the expenditure or savings of more than £1.25M over one accounting year unless expressly provided for in the adopted budget or Policy Framework

- involves the acquisition or disposal of land and buildings or any interest in land and buildings in excess of an estimated value of £1.25M unless covered by a specific item in the budget
- involves a budget virement of funding in excess of the virement limit to be set out in the Constitution
- recommends the promotion or amendment of local legislation
- involves significant public, private and voluntary partnership working in Norfolk
- involves the making of a Statutory Order or Scheme which will have a significant impact on the delivery of County Council services
- proposes significant changes to the Constitution

Together with any other decision which the Monitoring Officer, in consultation with the Leader and Head of Paid Service, considers to be a key decision within the Regulations.

- 1.5 A Chief Officer need not exercise their delegated power in any particular matter and must not do so if in their opinion the matter involves questions of policy as yet undecided by the Council or Committee or any substantial change from previous practice.
- 1.6 The Leader, with the exception of functions which are not to be the responsibility of the Executive, may, following consultation with the Head of Paid Service and Monitoring Officer, withdraw any delegations made by them by giving written notice to that effect to the relevant Chief Officer and copied to the Head of Paid Service and Monitoring Officer. The delegation may be withdrawn either generally or in a specific case and the withdrawal will take effect immediately the notice is given. The notice withdrawing the delegated power will also state who will exercise the delegated power in the place of the relevant Chief Officer. In the case of the delegation of a professional or technical matter, that person must be someone suitably qualified.

## **2. General conditions applying to all delegated powers listed below**

- 2.1 The delegated powers in Section B of this Scheme must be exercised.
  - (a) In accordance with any relevant policies of the County Council.
  - (b) In consultation with appropriate officers and after paying proper regard to any advice given.
- 2.2 Any power conferred upon a Chief Officer (which for this purpose includes the Heads of Service listed in Section B of this scheme) may be exercised in the name of the Chief Officer by their Deputy or another Senior Officer authorised in writing to do so by the Chief Officer.
- 2.3 In addition, a Chief Officer may authorise in writing any named officer to exercise a delegated power:

(a) in their absence, or

(b) when they are otherwise not available to exercise it at the relevant time.

2.4 Any authorisation under paragraphs (i) and (ii) must be documented.

2.5 Any authorisations given under paragraphs (i) and (ii) will be recorded in the Schedule at the end of this Appendix.

2.6 Chief Officers shall also be required to liaise with and inform:

(a) the relevant Cabinet Member regarding the exercise of powers and duties in appropriate cases;

(b)

(c) the local Member on those issues listed in the Local Member Protocol at the end of this Appendix.

2.7 A Chief Officer need not exercise their delegated power in any particular matter and unless prohibited by law, may instead refer the matter to Members for a decision.

2.8 Failure to carry out the consultations in paragraph 1(b) and 3 will not invalidate the exercise of the delegated power.

2.9 Where in the opinion of the appropriate Chief Officer and of the Assistant Director of Governance (Democratic and Regulatory Services) a decision which would otherwise be a Planning Regulatory Committee decision is required urgently, that Chief Officer, after consultation with any other appropriate Chief Officers, the Committee Chair and the main political group Spokespeople thereof, may take such a decision in respect of any matter falling within the remit of the Committee on the understanding that details of the matter, together with the decision, are reported by way of letter, to the Members of the Committee. In the event of there not being unanimous agreement between the Party Spokespeople, the matter should be referred to the Urgent Business Sub-Committee.

2.10 Any reference in these delegations to any Act or Statutory Instrument or any section or clause thereof, is deemed to refer to the same as at any time amended, and where such Act, Instrument, section or clause has been replaced, consolidated, or re-enacted, with or without amendment, such mention shall be deemed to refer to the relevant provisions of the replacing, consolidating or re-enacting statute or instrument.

2.11 The power to grant licences, consents, approvals, permissions, certificates and authorisations includes the power to vary, revoke or refuse such licences etc. and to grant them with or without conditions.

2.12 This Scheme does not apply to the statutory responsibilities placed on the Head of Paid Service, Executive Director Finance & Commercial Services and Director of Governance nor to any non- statutory tasks which Central Government from time to time requests of individual Chief Officers.

- 2.13 Any decision or appointments made, or authorisation given by a Chief or other officer before 7 May 2019 remains effective and in force unless or until expressly revoked.

### **3. Officers' scheme of delegated powers**

The following summaries of Chief Officers' delegations' detail further exceptions and provide appropriate clarification: -

#### **3.1 Head of Paid Service**

In accordance with the strategies, policies and priorities of the Council and the general conditions set out in Section A of this Scheme:

1. To exercise the functions of Head of Paid Service under the provisions of the Local Government and Housing Act 1989
2. To do, or authorise to be done, any act or thing necessary to affect any decision of the Council.
3. To exercise any powers where necessary in the event of a civil emergency, consulting where practicable with the Group Leaders and Chair of the Scrutiny Committee.
4. To determine the list of politically restricted posts within the Council and to issue certificates under Section 3 of the Local Government and Housing Act 1989.
5. To authorise an Executive Director to act in their absence on any matter within their authority.
6. To give permission for the use of the County Council's Coat of Arms.
7. To divide electoral divisions into polling districts at local government elections.
8. To make appointments to Committees in consultation with the relevant Group Leader.
9. In line with the statutory requirements set out in sections 36 – 41 of the Counter Terrorism and Security Act 2015 to ensure compliance with the Channel duty guidance 2020 (and any future updates) including the constitution of a Channel Panel for its area.

#### **3.2 Executive Director of Children's Services**

In accordance with the strategies, policies and priorities of the Council and the general conditions set out in Section A of this Scheme, to exercise the Council's functions relating to Children's Services, including social care and intervention services for children and young people, adoption, youth offending residential establishments (but excluding decisions on the closure, relocation or change of use of residential establishments) schools, further education and the youth service including:

- (a) Filling vacancies for Local Education Authority School Governors on the basis of nominations recommended by the appropriate nominating Party Spokesperson.
- (b) Dismissal of Local Education Authority School Governors.

- (c) Variations to the Scheme for the Local Management of Schools and any cases of a withdrawal of delegated powers; but excluding.
- (d) The adoption of a syllabus of religious education on the recommendation of the Standing Advisory Committee on Religious Education.
- (e) Major school reorganisation proposals.
- (f) Proposals to open and close schools.

In addition:

- (i) The Children's Services operational lead for school attendance and the Senior Adviser – Safeguarding are authorised to institute legal proceedings in connection with the Council's functions relating to school attendance.
- (ii) The Children's Services operational lead for school attendance and the Senior Adviser – Safeguarding are authorised to serve school attendance orders.
- (iii) To license the employment of children.

### **3.3 Executive Director of Adult Social Services**

In accordance with the strategies, policies and priorities of the Council and the general conditions set out in Section A of this Scheme, to exercise the Council's functions relating to Social Services for adults, disabled persons, elderly persons, welfare and mental health services, community care and residential homes but excluding decisions on the closure, relocation or change of use of residential establishments and day establishments.

### **3.4 Executive Director of Community and Environmental Services**

In accordance with the strategies, policies and priorities of the Council and the general conditions set out in Section A of this Scheme, to exercise the Council's functions with regard to Adult Education, Customer Services, Libraries, Museums, Archaeology, Archives and the Arts but excluding the withdrawal or major modification of public facilities.

In accordance with the strategies, policies and priorities of the Council and the general conditions set out in Section A of this Scheme, to exercise the Council's functions relating to Town and Country Planning, Highways, Transportation, the Environment, Waste Disposal, Waste Management, Trading Standards, Safety of Sports Grounds, Consumer and Environmental Protection, Animal Health and Welfare, , Emergency Planning and Economic Development including:

- (1) Approving minor or uncontroversial changes to the County Council's planning policies and plans and minor or uncontroversial comments on other organisations' plans and policies.
- (2) Responding to District Council consultations on planning applications or to development

proposals by Government departments, statutory undertakers, local authorities or other decision-making bodies provided that the proposal is consistent with County Council policy, is unlikely to raise controversial issues of a strategic nature and the Local Member has been informed of the proposed response.

- (3) Giving advice or making recommendations to local planning authorities on behalf of the County Council as local highway authority, minerals and waste planning authority and county planning authority.
- (4) In connection with permanent and experimental traffic regulation orders (including speed limits):
  - (i) to authorise the public advertisement of the intention to make such orders
  - (ii) to authorise the making of such orders where there are no objections
- (5) Imposing temporary speed limits and temporary traffic restrictions and prohibitions.
- (6) To exercise the Council's functions relating to land drainage.
- (7) The powers of entry, inspection, sampling, test purchasing, and all other powers given to duly authorised officers or inspectors in connection with the functions relating to trading standards, safety of sports grounds, consumer and environmental protection, animal health and welfare and planning services.
- (8) Appointing and authorising officers of the Council and other authorities to enforce the legislation relating to the functions of trading standards, safety of sports grounds, consumer and environmental protection, animal health and welfare, and planning services including the institution of legal proceedings (including proceedings under Section 222 of the Local Government Act 1972) and the authorisation of officers to appear in the Magistrates Court but excluding the making of Orders and Regulations.
- (9) Appointing and authorising officers of the Council as Inspectors under Section 19(1) of the Health and Safety of Work Act 1974 and to authorise such postholders to exercise the powers contained in Sections 20(2), 21, 22, 25, 38 and 39 of the Act and the provisions of the Explosives Act 1875 being relevant statutory provisions under the 1974 Act, and of Regulations, Orders or other legislation made, modifying or having effect under the provision.
- (10) Giving advice or recommendations to Local Planning Authorities on behalf of the County Council as Lead Local Flood Authority in line with requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- (11) To appoint individuals to act as Public Analysts in accordance with the Food Safety Act 1990, Section 27(i) and to appoint Agricultural/Deputy Agricultural Analysts in accordance with the Agriculture Act 1970, Section 67.3(b).
- (12) To exercise all the functions of the Council relating to Town and Country Planning and Development Management except for:
  - (a) approval of applications for County Matter and County Council development where



objections are raised by statutory consultees;

- (b) approval of applications for County Matter and County Council development which have three or more individual representations raising planning related objections;
  - (c) approval of applications for County Matter and County Council development requiring Environmental Impact Assessments;
  - (d) where the Executive Director of Community and Environmental Services determines, in consultation with the Chair of the Planning (Regulatory) Committee, that approval of applications for County Matter and County Council development should be determined by the Committee; and
  - (e) approval of applications for County Council development which are considered a departure from the Development Plan.
- (13) To refuse applications for County Matters and County Council development on the grounds that there is insufficient information to determine the application.
  - (14) To authorise the publication and maintenance of records associated with the register of flood risk structures or features under Section 21 of the Flood and Water Management Act 2010.
  - (15) Approving the publication of formal flood investigations undertaken under Section 19 of the Flood and Water Management Act 2010.
  - (16) To issue screening and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 (as amended).
  - (17) To exercise the Council's powers and duties in respect of obtaining information as to interests in land under Section 330 of the Town and Country Planning Act 1990.
  - (18) To exercise the Council's powers and duties in respect of obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
  - (19) To exercise the functions of the Council as the Competent authority under the Conservation of Habitats and Species Regulations 2010, as amended, with regards to any consent, permission or other authorisation for, a plan or project for which it is the relevant planning authority. Including:
    - Determine whether or not an appropriate assessment is required.
    - Where it is considered that an appropriate assessment is required.
    - Decide whether it is appropriate to take the opinion of the public and if so the necessary steps to be taken, and
    - In the light of an appropriate assessment, determine whether the Plan or Project will or will not adversely affect the integrity of the European site.
  - (20) To authorise entry onto land under Section 196 of the Town and Country Planning Act 1990.

- (21) To grant Street Works licences.
- (22) To permit the deposit of builders skips on the highway.
- (23) To license the planting, retention and maintenance of trees etc on the highway.
- (24) To licence works in relation to buildings etc which obstruct the highway.
- (25) To consent to temporary deposits or excavations in streets.
- (26) To dispense with the duty to erect hoardings or fences.
- (27) To restrict the placing of rails, beams etc. over highways.
- (28) To consent to the construction of cellars etc under streets.
- (29) To consent to the making of openings into cellars etc under streets, and pavement lights and ventilators.
- (30) To remove things deposited on highways so as to be a nuisance.
- (31) To assert and protect the rights of the public to the use and enjoyment of highways.
- (32) To create footpaths, bridleways and restricted byways by agreement or by order.
- (33) To divert, stop up and extinguish footpaths, bridleways and restricted byways.
- (34) To enter into access agreements under Section 35 of the Countryside and Rights of Way Act 2000.
- (35) To provide access in the absence of agreement under Section 37 of the Countryside and Rights of Way Act 2000.
- (36) To authorise temporary disturbance of the surface of footpaths, bridleways and restricted byways.
- (37) To temporarily divert footpaths, bridleways and restricted byways.
- (38) To exercise functions relating to the making good of damage and removal of obstructions from public paths.
- (39) To authorise the erection of stiles etc on footpaths and bridleways.
- (40) To designate footpaths as cycle tracks.
- (41) To enter into agreements under Section 278 of the Highway Act 1980.
- (42) To license the movement of cattle from a market.
- (43) To license the movement of animals under specific disease orders.

- (44) To permit the placing of scaffold/hoarding on the highway.
- (45) To licence the cultivation of areas subject to full highway rights.
- (46) To licence the movement of animals, where such movements would otherwise be allowed under general licence, in an instance where the ability of livestock keeper to use the general licence has been removed.
- (47) To exercise all the Council's functions in relation to the safety of sports grounds legislation.

### **3.5 Executive Director – Finance and Commercial Services**

In accordance with the strategies, policies and priorities of the Council and the general conditions set out in Section A of this Scheme, to be responsible for the proper administration of the financial affairs of the Council including all arrangements concerning financial planning, financial control, banking, accounts, income, insurances, investments, bonds, loans, guarantees, leasing, borrowing (including methods of borrowing), trust and pension funds, the payment of creditors, the payment of salaries, wages, pension schemes benefits and gratuities and internal audit. Authorisation of write-off of debts less than £10,000.

### **3.6 Chief Fire Officer**

In accordance with the strategies, policies and priorities of the Council and the general conditions set out in Section A of this Scheme, to exercise the Council's functions relating to fire prevention, firefighting, fire safety, explosives and petroleum and the functions conferred on the local authority under Part 25 of the Fire Safety Order 2005, the Fire and Rescue Services Act 2004 and the Fire and Rescue National Framework.

- (a) The appointment of holders of the following posts below as Inspectors under Section 19(1) of the Health and Safety at Work etc Act 1974 and to authorise such postholders to exercise the powers contained in sections 20(2), 21, 22, 25 and 39 of the Act:

Chief Fire Officer  
Deputy Chief Fire Officer  
Assistant Chief Fire Officer  
Area Managers  
Brigade Managers

### **3.7 Director of Public Health**

In accordance with the strategies, policies and priorities of the Council and the general conditions set out in Section A of this Scheme, to exercise the Council's functions relating to Public Health and specifically:

- Health Protection
- Health Improvement
- Clinical Public Health including advice to the wider health system
- Health Intelligence
- Emergency planning

### **3.8 Director of Governance**

In accordance with the strategies, policies and priorities of the Council and the general conditions set out in Section A of this Scheme:

Appointed as:

- Senior Responsible Officer (SRO)
- Data Protection Officer (DPO)
- Money Laundering Reporting Officer (MLRO)

- (1) To authorise officers to appear and represent the Council in Magistrates and County Courts.
- (2) To serve notices requiring information to be given in respect of interests in land.
- (3) To enter into any legal documentation, make any statutory orders, make any application to the Courts or other tribunals and take associated action, to give effect to decisions made by or on behalf of the Council.
- (4) To deal with Blight Notices and Purchase Notices.
- (5) To keep the Definitive Map and Statement under review.
- (6) To include modifications relating to the Definitive Map and Statement in other Orders relating to public rights of way.
- (7) To keep the register of prescribed information with respect to applications under Section 53(5) of the Wildlife and Countryside Act 1981.
- (8) To prepare a map and statement by way of consolidation of the Definitive Map and Statement.
- (9) To serve notices requiring information to be given in respect of interests in land.
- (10) To determine applications for certificates of lawful use or development and for certificates of lawfulness for proposed use or development.
- (11) To register common land or town or village greens and to register variation of rights of common and to determine applications for the registration of land as new Town or Village Green.
- (12) To obtain information under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 and Section 330 of the Town and Country Planning Act 1990.

### **3.9 Assistant Director of Governance (Democratic and Regulatory Services)**

In accordance with the strategies, policies and priorities of the Council and the general conditions set out in Section A of this Scheme:

Appointed as:  
Statutory Scrutiny Officer

And to exercise the Council's functions in respect of:

1. The Registration Act 1953
2. The Marriages and Civil Partnerships (Approved Premises) Regulations 2005
3. the Marriages Act 1949
4. the Coroners Service
5. making appointments to the Norfolk Valuation Panel
6. To declare vacancies in office and give public notice of a casual vacancy under Sections 86 and 87 of the Local Government Act 1972.

## **10. Limitations on officers delegated decisions**

### **4.1 Grants thresholds**

i.e. those thresholds above which Member approval will be required for the making of grants. (See para 2(g) of Section A of this Scheme).

In respect of the following service areas: -

1. Children's Services - £10,000
2. Cultural Services - £1,000.
3. Citizens Advice Bureau – all grants

## Schedule of delegations of Chief Officers' powers

### Executive Director of Children's Services

#### Section A2 (November 2020)

Areas of Delegation	Range of Grades
a. Issuing and serving statutory notices.	K (or equivalent) and above, within their areas of responsibility.
b. Granting any licence, consent, approval, permission certificate or authorisation with or without conditions, or their refusal.	H and above, within their areas of responsibility.
c. Fixing, varying, deferring and waiving charges and similar payments which the County Council is entitled to impose.	P and above, within their areas of responsibility.
d. Signing documents.	K and above, within their areas of responsibility.
e. Authorising entry onto land.	Not applicable
f. Inspecting land and premises and things on premises.	E and above, within their areas of responsibility.
g. Making grants (up to £10,000).	J and above, within their areas of responsibility.
h. Making Statutory Orders and Schemes.	K (or equivalent) and above, within their areas of responsibility.
i. Instituting criminal proceedings.	J and above, within their areas of responsibility.
j. Declaring land to be surplus to the requirements of their service.	Reserved to Executive Director
k. Delivering the approved capital programme for their service.	K and above, within their areas of responsibility.

## Schedule of delegations of Chief Officers' powers

### Executive Director of Children's Services

#### General delegation (November 2020)

Each member of the Children's Services Departmental Management Team, together with staff in their services within their areas of responsibility and graded at SO1 and above, are authorised to exercise the Council's functions delegated to the Executive Director of Children's Services in relation to education, schools, further education, youth service and the Youth Offending Team.

Area of Delegation	Officer(s)
a. Reviewing decisions made by the Authority in exercising its discretionary powers relating to the provision of financial and other support to pupils and students.	Assistant Director – Education
b. Filling vacancies for Local Education Authority School Governors on the basis of nominations recommended by the appropriate nominating Party Spokespeople and dismissal of LEA School Governors.	Assistant Director – Education
c. Variations to the Scheme of Local Management of schools and any cases of a withdrawal of delegated powers.	Reserved to Executive Director
d. Applications under part IV of the Children Act 1989 i.e. Care Orders, Emergency Protection Orders and Recovery Orders.	(Qualified and Registered) Social Workers in consultation with Team Managers
e. Application to the Court for an order under the inherent jurisdiction in relation to children.	(Qualified and Registered) Social Workers in consultation with Safeguarding Manager and/or Corporate Parenting Manager
f. Applications under Section 18 of the Adoption Act 1976 i.e. freeing for adoption.	(Qualified and Registered) Social Workers in consultation with Safeguarding Manager and/or Corporate Parenting Manager
g. Applications under the Children Act and Adoption Act for leave to disclose documents in proceedings.	Case Responsible Team Managers in consultation with Safeguarding Manager and/or Corporate Parenting Manager

h. Application to the Court for a breach of a Court Order.	Case Responsible Team Managers in consultation with Safeguarding Manager and/or Corporate Parenting Manager
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## Schedule of delegations of Chief Officers' powers

### Executive Director of Adult Social Services

#### Section A2 (November 2020)

Area of Delegation	Range of Employees' Grades
a. Issuing and serving statutory notices.	M and above, within their areas of responsibility
b. Granting any licence, consent, approval, permission certificate or authorisation with or without conditions, or their refusal.	M and above, within their areas of responsibility
c. Fixing, varying, deferring and waiving charges and similar payments which the County Council is entitled to impose.	M and above, within their areas of responsibility
d. Signing documents.	D and above, within their areas of responsibility
e. Authorising entry onto land.	Not applicable
f. Inspecting land and premises and things on premises.	D and above, within their areas of responsibility
g. Making grants (subject to any limitations imposed by Committee).	M and above, within their areas of responsibility
h. Making Statutory Orders and Schemes.	I and above, within their areas of responsibility (in consultation with line managers)
i. Instituting criminal proceedings.	Executive Director or Assistant Director
j. Declaring land to be surplus to the requirements of their service.	Executive Director
k. Delivering the approved capital programme for their service.	K and above, within their areas of responsibility

In the absence of the Executive Director, any Assistant Director is authorised to act on their behalf. In matters requiring a professional social work decision, the appropriate Assistant Director's advice will be sought, where possible.

## **Schedule of delegations of Chief Officers' powers**

### **Executive Director of Adult Social Services**

#### **General delegation (November 2020)**

Each member of the Adult Social Services Department Senior Management Team, together with employees in their services within their areas of responsibility is authorised to exercise the Council's functions delegated to the Executive Director of Adult Social Services in respect of social care services to adults and children and their families.

In addition, the making of the following applications is delegated to:

Complaint under Section 43 and 56 of the National Assistance Act 1948 to recover the costs of assistance from persons liable for maintenance.	Executive Director Finance & Commercial Services
Application under Section 29 of the Mental Health Act 1983 for appointment by the Court of acting nearest relative.	Approved Social Workers
Applications under Sections 2,3 and 4 of the Mental Health Act 1983.	Approved Social Workers
Applications for Guardianship under Section 7 of the Mental Health Act 1983.	Approved Social Workers

## Schedule of delegations of Chief Officers' powers

### Director of Governance (November 2020)

The following powers will be exercised by the Director of Governance and the postholders indicated in the second column of the table.

(1)	To authorise officers to appear and represent the Council in Magistrates and County Courts.	Assistant Director of Governance (Head of Legal Services)nplaw
(2)	To serve notices requiring information to be given in respect of interests in land.	nplaw Solicitors
(3)	To enter into any legal documentation, make any statutory orders and make any application to the Courts or other tribunals, and to take associated action, to give effect to decisions made by or on behalf of the Council	Everybody, within their general area of responsibility with sealing and signing of contracts limited to M grade nplaw officers and above and to the Head of Governance and Regulatory Services
(4)	To deal with Blight Notices and Purchase Notices.	M grade nplaw officers and above

## Schedule of delegations of Chief Officers' powers

### Assistant Director of Governance (Democratic and Regulatory Services) (November 2020)

The following powers will be exercised by the Head of Governance and Regulatory Services, and the postholders indicated in the second column of the table below.

(1) To exercise the Council's functions in respect of the Registration Service Act 1953	Registration Services Manager
(2) To exercise the Council's functions in respect of the Marriages and Civil Partnerships (Approved Premises) Regulations 2005	Registration Services Manager
(1) To exercise the Council's functions in respect of the Marriage Act 1949.	Registration Services Manager -
(4) To exercise the Council's functions in respect of the Coroner's Service	Coroner's Service Manager
(1) To make appointments to the Norfolk Valuation Panel	Head of Governance & Regulatory Services
(6) To declare vacancies in office and give public notice of a casual vacancy under Sections 86 and 87 of the Local Government Act 1972.	Head of Governance & Regulatory Services

## Schedule of delegations of Chief Officers' powers

### Executive Director of Community and Environmental Services

#### General delegation (November 2020)

Each member of the Community and Environmental Services Management Team, together with staff in their services graded at Scale H and above, are authorised within their area of responsibility, to exercise the Council's functions delegated to the Executive Director of Community and Environmental Services, in respect of adult education, customer services, libraries, museums, archaeology, archives, arts, town and country planning, highways, transportation, the environment, waste disposal, waste management, trading standards, safety of sports grounds, emergency planning, consumer and environmental protection, animal health and welfare and economic development but excluding the withdrawal or major modification of public facilities

Specific delegations are detailed below.

Specific and general delegations relating to the Statutory posts within Community and Environmental Services (Chief Fire Officer and Director of Public Health) are detailed later in this document.

#### Section A2 – specific delegation (November 2020)

Specific delegations apply only within an officer's area of responsibility.

Where specific posts are detailed, the delegation also applies to the post holder's line manager and their line management.

Area of Delegation	Officer(s)/Range of Grades
(a) Issuing and serving statutory notices.	Scale H and above graded officers
(b) Granting any licence, consent, approval, permission certificate or authorisation with or without conditions, or their refusal.	Scale H and above graded officers
(c) Fixing, varying, deferring and waiving charges and similar payments which the County Council is entitled to impose.	Scale M and above graded officers Network Co-ordinators (Street Works)
(d) Signing (legal) documents.	Scale M and above graded officers Highways Development Management Service Officers Scale K and above

(e) Authorising entry onto land.	Scale M and above graded officers
(f) Inspecting land and premises and things on premises.	All those authorised to enter land under (e)
(g) Making grants (subject to any limitation imposed by the Council or Committee).	Scale M and above graded officers
(h) Making Statutory Orders and Schemes.	Scale H and above graded officers
(i) Instituting criminal proceedings.	Scale M and above graded officers
(j) Declaring land to be surplus to the requirements of their Services	Members of Departmental Management Team
(k) Delivering the approved capital programme for their service.	Members of Departmental Management Team

## Schedule of delegations of Chief Officers' powers

### Executive Director of Community and Environmental Services

#### Section B – specific delegation (November 2020)

Specific delegations apply only within an officer's area of responsibility.

Where specific posts are detailed, the delegation also applies to the post holder's line manager and their line management.

Area of Delegation	Officer(s)/Range of Grades
(1) Approving minor or uncontroversial changes to the County Council's planning policies and plans and minor or uncontroversial comments on other organisations' plans and policies.	Members of Departmental Management Team Head of Planning Senior Planners Scale K and above Highways Development Management Service Officers Scale J and above
(2) Responding to District Council consultations on planning applications or to development proposals by Government departments, statutory undertakers, local authorities or other decision-making bodies provided that the proposal is consistent with County Council policy, is unlikely to raise controversial issues of a strategic nature and the Local Member has been informed of the proposed response.	As (1) above
(3) Giving advice or making recommendations to local planning authorities on behalf of the County Council as local highway authority, minerals and waste planning authority and county planning authority	As (1) above
(4) In connection with permanent and experimental traffic regulation order (including speed limits): - (i) to authorise the public advertisement of the intention to make such orders (ii) to authorise the making of such orders where there are no objections	Scale H and above graded officers

(5) Imposing temporary speed limits and temporary traffic restrictions and prohibitions.	Team Manager (Network Management) Network Co-ordinators (Street Works)
(6) To exercise the Council's functions relating to land drainage.	Scale M and above graded officers
(7) The powers of entry, inspection, sampling, test purchasing, and all other powers given to duly authorised officers or inspectors in connection with the functions relating to trading standards, consumer and environmental protection, animal health and welfare and planning services.	Head of Trading Standards Head of Planning
(8) Appointing and authorising officers of the Council and other authorities to enforce the legislation relating to the functions of trading standards, consumer and environmental protection, animal health and welfare, and the Health Protection (Coronavirus, Business Closure) (England) Regulations 2020, the Health Protection (Coronavirus, Restrictions) (England) Regulations and any ancillary or consequential health protection legislation in so far as it relates to the functions of trading standards and enforcement, and planning services including the institution of legal proceedings (including proceedings under Section 222 of the Local Government Act 1972) and the authorisation of officers to appear in the Magistrates Courts.	Head of Trading Standards Head of Planning



<p>(9) Appointing and authorising officers of the Council as Inspectors under Section 19(1) of the Health and Safety of Work Act 1974 and to authorise such postholders to exercise the powers contained in Sections 20(2), 21, 22, 25, 38 and 39 of the Act and the provisions of the Explosives Act 1875 being relevant statutory provisions under the 1974 Act, and of Regulations, Orders or other legislation made, modifying or having effect under the provision.</p>	<p>Head of Trading Standards</p>
<p>10) Giving advice or recommendations to Local Planning Authorities on behalf of the County Council as Lead Local Flood Authority in line with requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015.</p>	<p>officers Scale H and above</p>
<p>(11) To appoint individuals to act as Public Analysts in accordance with the Food Safety Act 1990, Section 27(i) and to appoint Agricultural/Deputy Agriculture Analysts in accordance with the Agriculture Act 1970, Section 67.3(b)</p>	<p>Head of Trading Standards</p>
<p>(12) To exercise all the functions of the Council relating to Town and Country Planning and Development Management except for:</p> <p>(i) approval of planning applications and proposals in accordance with the Development Plans where objections are raised by statutory consultees or/and have three or more individual representations raising planning related objections;</p>	<p>Head of Planning Principal officers Scale L and above</p>

<p>(ii) approval of minerals and waste applications requiring Environmental Impact Assessments;</p> <p>(iii) approval of applications for County Matter and County Council development where no more than four individual representations raising planning-related objection are received and the Executive Director of Community and Environmental Services determines, in consultation with the Chair of the Planning (Regulatory) Committee, that the application should be determined by the Committee.</p>	
(13) To refuse applications on the grounds that there is insufficient information to determine whether or not the application accords with the development plan.	Head of Planning Principal Planners Scale L and above
(14) To authorise the publication and maintenance of records associated with the register of flood risk structures or features under Section 21 of the Flood and Water Management Act 2010	Scale L and above graded officers
(15) Approving the publication of formal flood investigations undertaken under Section 19 of the Flood and Water Management Act 2010	Scale L and above graded officers
(16) To issue screening and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 (as amended).	Head of Planning Principal Planners Scale L and above
(17) To exercise the Council's powers and duties in respect of obtaining information as to interests in land under Section 330 of the Town	Head of Planning Principal Planners Scale L and above

and Country Planning Act 1990.	
(18) To exercise the Council's powers and duties in respect of obtaining particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Head of Planning Principal Planners Scale L and above
<p>(19) To exercise the functions of the Council as the Competent authority under the Conservation of Habitats and Species Regulations 2010, as amended, with regards to any consent, permission or other authorisation for, a plan or project for which it is the relevant planning authority. Including: -</p> <ul style="list-style-type: none"> <li>• Determine whether or not an appropriate assessment is required;</li> <li>• Where it is considered that an appropriate assessment is required;</li> <li>• Decide whether it is appropriate to take the opinion of the public and if so the necessary steps to be taken; and</li> <li>• In the light of an appropriate assessment, determine whether the Plan or Project will or will not adversely affect the integrity of the European site.</li> </ul>	Head of Planning Principal Planners Scale L and above
(20) To authorise entry onto land under Section 196 of the Town and Country Planning Act 1990	Head of Planning Principal Planners Scale L and above
(21) To grant Street Works licences	Inspector (Street Works) Grade G and above
(22) To permit the deposit of builders skips on the highway	Inspector (Street Works) Grade G and above
(23) To license the planting, retention and maintenance of trees etc. on the highway	Highway Engineer Scale K and above

(24) To licence works in relation to buildings etc. which obstruct the highway	Highway Engineer Scale K and above
(25) To consent to temporary deposits or excavations in streets	Highway Engineer Scale K and above
(26) To dispense with the duty to erect hoardings or fences	Highway Engineer Scale K and above
(27) To restrict the placing of rails, beams etc over highways	Highway Engineer Scale K and above
(28) To consent to the construction of cellars etc. under streets	Highway Engineer Scale K and above
(29) To consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators	Highway Engineer Scale K and above
(30) To remove things deposited on highways so as to be a nuisance	Highway Engineer Scale K and above
(31) To assert and protect the rights of the public to the use and enjoyment of highways	Highway Engineer Scale K and above
(32) To create footpaths, bridleways and restricted byways by agreement or by order	Highway Engineer Scale K and above Environment Service Managers Scale L and above
(33) To divert, stop up and extinguish footpaths, bridleways and restricted byways	Highway Engineer Scale K and above Environment Service Managers Scale L and above
(34) To enter into access agreements under Section 35 of the Countryside and Rights of Way Act 2000	Highway Engineer Scale K and above Environment Service Managers Scale L and above
(35) To provide access in the absence of agreement under Section 37 of the Countryside and Rights of Way Act 2000	Highway Engineer Scale K and above Environment Service Managers Scale L and above

(36) To authorise temporary disturbance of the surface of footpaths, bridleways and restricted byways	Highway Engineer Scale K and above Environment Service Managers Scale L and above
(37) To temporarily divert footpaths, bridleways and restricted byways	Highway Engineer Scale K and above Environment Service Managers Scale L and above
(38) To exercise functions relating to the making good of damage and removal of obstructions from public paths	Highway Engineer Scale K and above Environment Service Managers Scale L and above
(39) To authorise the erection of stiles etc on footpaths and bridleways	Highway Engineer Scale K and above Environment Service Managers Scale L and above
(40) To designate footpaths as cycle tracks	Highway Engineer Scale K and above Environment Service Managers Scale L and above
(41) To enter into agreements under Section 278 of the Highway Act 1980	Scale M and above graded officers
(42) To license the movement of cattle from a market	Scale M and above graded officers
(43) To license the movement of animals under specific disease orders	Scale M and above graded officers
(44) To permit the placing of scaffold/hoarding on the highway	Inspector (Street Works) Grade G and above
(45) To licence the cultivation of areas subject to full highway rights	Highway Engineer Scale K and above
(46) To licence the movement of animals, where such movements would otherwise be allowed under general licence, in an instance where the ability of livestock keeper to use the general licence has been removed	Scale M and above graded officers.

(47) To exercise all the Council's functions in relation to the safety of sports grounds legislation	Head of Trading Standards Scale M and above graded officers
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## Schedule of delegations of Chief Officers' powers

### Chief Fire Officer

#### General delegation (November 2020)

Each member of the Fire and Rescue Service with staff in their services graded at Firefighter/Fire Safety Advisor and above, are authorised, within their area of responsibility, to exercise the Council's functions delegated to the Chief Fire Officer. In respect of Fire Safety, specific delegations are detailed below.

Specific delegations apply only within an officer's area of responsibility. Where specific posts are detailed, the delegation also applies to the post holder's line manager and their line management.

#### Section B – Specific delegation (November 2020)

Area of Delegation	Officer(s) Range of Grades
RR (Fire Safety) Order 2005 – Part 31 – Prohibition Notices	Chief Fire Officer Deputy Chief Fire Officer Assistant Chief Fire Officer Area Manager
RR (Fire Safety) Order 2005 – Part 30 – Enforcement Notices	Chief Fire Officer Deputy Chief Fire Officer Assistant Chief Fire Officer Area Manager Group Manager Station Manager Operational Support Officer Fire Safety Advisor
RR (Fire Safety) Order 2005 – Part 29 – Alterations Notices	Chief Fire Officer Deputy Chief Fire Officer Assistant Chief Fire Officer Area Manager Group Manager Station Manager Operational Support Officer Fire Safety Advisor
RR (Fire Safety) Order 2005 – Part 27 – Powers of Inspectors	All Grades

## **Schedule of delegations of Chief Officers' powers**

### **Director of Public Health**

#### **Section A2 – specific delegation (November 2020)**

<b>Areas of Delegation</b>	<b>Range of Grades</b>
a. Issuing and serving statutory notices.	Director or Deputy Director
b. Granting any licence, consent, approval permission certificate or authorisation with or without conditions, or their refusal.	Director or Deputy Director
c. Fixing, varying, deferring and waiving charges and similar payments which the County Council is entitled to impose.	Director or Deputy Director
d. Signing documents.	L and above, within their areas of responsibility.
e. Making grants (up to £10,000).	M and above

#### **Section B – specific delegation (November 2020)**

##### **General delegation**

Each member of the Public Health Departmental Management Team, together with staff in their services within their areas of responsibility, are authorised to exercise the Council's functions delegated to the Director of Public Health in relation to:

- Health Protection
- Emergency planning
- Health Improvement
- Clinical Public Health including advice to the wider health system
- Health Intelligence



## Local Choice Functions

1. The Local Authorities (Functions and Responsibilities) Regulations 2000 explain the split of functions between the Council (and its committees) and the Executive (the Leader and the Cabinet and cabinet members).
2. In Schedule 2 of those Regulations there is a list of functions that may be, but do not need to be, exercised by the Executive. A number of these functions are delegated through the constitution, however for completeness the table below is included.

	Local choice functions	Decision maker	Delegation
1	Any function under a Local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	Leader	There are no current local acts but if there were to be the Leader would delegate these through the scheme of delegation
2	Determining appeals against any decision made by or on behalf of the Council	Council	Delegated to the Planning and Regulatory Committee
3	Repealed		
4	The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools	Leader	Delegated to the Executive Director Children's Services
5	The making of arrangements pursuant to sections 94(1), (1A) and (4) of the 1998 Act (admissions appeals)	Leader	Delegated to the Executive Director Children's Services
6	The making of arrangements pursuant to section 95(2) of the 1998 Act (children to whom section 87 applies: appeals by governing bodies)	Leader	Delegated to the Executive Director Children's Services
7	Repealed		
8	Repealed		
	Any functions relating to contaminated land	Leader	Delegated to the Head of Trading Standards and the Head of Planning
9	Any function relating to the control of pollution or the management of air quality.	Leader	Delegated to the Head of Trading Standards and the Head of Planning
10	Not relevant		
11	Not relevant		
12	Not relevant		

13	Not relevant		
14	Obtaining information as to interests in land under Section 330 of the Town and Country Planning Act 1990.	Council	Delegated to the Planning (Regulatory) Committee
15	Obtaining particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Council	Delegated to the Planning (Regulatory) Committee
16	Making agreements for the execution of highways works.	Leader	Delegated to M grade officers and above
17	The appointment of any individual to any office (other than one in which the individual is employed by the Council) or to any outside body, and the revocation of any such appointment.	Leader	Remains with the Leader subject to the provisions in appendix 3(2)(b) of the constitution
18	Making agreements with other local authorities for the placing of staff at the disposal of those authorities	Leader	Delegated to the Cabinet (page 30 of the constitution)

## **Part 10D: Local Member Protocol for informing Members of issues relating to their Electoral Division**

### **1. Children's Services**

- Reviews of provision including new services or closures of establishments or services and school closures or amalgamations.
- Changes in procurement of services.
- Significant building work, i.e. provision of additional accommodation, new school buildings, early years or nursery provision, remodeling of a school requiring building work, replacement of mobile classrooms.
- Outcome of inspections.
- Local events, activities, presentations.
- Local school admission issues.
- Governor vacancies.
- Key visitors to County Councillor's Divisions.
- Major accidents, injuries or violent incidents affecting children's services, staff or property (including fire, flood, vandalism, burglary which affect operational efficiency).
- Meetings with Members/Members of Parliament.
- Funding/grants to voluntary organisations.

### **2. Youth Justice**

- Local initiatives for youth crime and prevention.
- Serious incidents involving a young offender subject to supervision where there is likely to be significant public reaction.

### **3. Adult Social Services**

- Major accidents, injuries or violent incidents affecting Social Services staff or property (including fire, flood, vandalism, burglary which affect operational efficiency).
- Controversies (i.e. forthcoming court hearings and inquests concerning clients or staff, deaths, missing clients, service problems or complaints, inter-departmental issues).
- Meetings with Members/Members of Parliament.
- Opening of new premises or a new service.
- Closure of a home, establishment or service.
- Changes/developments to social services delivery (e.g. new structure, re-organisation of services).
- Funding/grants to voluntary organisations.
- Key visitors to Divisions.
- New partnership/joint ventures.

### **4. Community and Environmental Services**

## **10.1 Highways and Transport**

- Road and bridge design.
- Publicity statements relating to highway maintenance schemes.
- Major highways developments.
- Traffic Management proposals and objections to proposals.
- Provision of new pedestrian crossings.
- Traffic calming schemes.
- Footway improvement proposals.
- Footpath maintenance and improvements.
- Land acquisitions for maintenance schemes.
- Cycling schemes.
- Route hierarchy reviews.
- Progress on enforcement action in relation to development control.
- Schools, participating in the Healthier and Safer Journeys to School Initiative.
- Revised bus services, local bus service contracts.
- Major public transport service changes.
- Changes to home to school transport arrangements.
- Definitive Map Modification Order applications.
- RUPP Reclassification Orders.
- Applications re: new village greens.

## **4.2 Environment and Planning**

- Issues relating to the presence of travellers:
  - Traveller group locations (where known).
  - Placing of facilities at the location.
  - Case conferences under the Traveller protocol.
- Any local concerns/media interest.
- 'County Matter' planning applications.
- Formulation of the Minerals and Waste Local Plan.
- Planning applications under Regulation 3 of the Town and Country Planning General Regulations 1992.

## **4.3 Trading Standards**

- Major breaches of legislation identified which may be of significant public interest, including animal disease outbreaks.
- Significant results of inspections of businesses, i.e. those involving the discovery of major breaches of legislation and the corrective action being taken to address them.
- Consumer complaints about businesses that may have a significant or wide local impact within the community – or nationally (e.g. serious safety issues or fraudulent behaviour).
- High profile enforcement activities, including public enforcement interventions (e.g. prosecution, injunction orders).
- Applications for new Safety Certificates at sports grounds.
- Amendments to Safety Certificates involving any changes in permitted

capacity.

- Prohibition notices relating to sports grounds.

#### **4.4 Economic Development and Strategy**

- Planning applications in respect of which the County Council as Strategic Planning Authority is consulted by District Planning Authorities.
- Proposals to make a very strong recommendation for refusal of planning permission on highways grounds.
- New local investment.
- Successful projects under one of our grant schemes.
- Regional/International meetings/visits taking place in a Member's division.
- Area specific policy issues.
- Where there is a likelihood of an application for funding being turned down.
- Changes to the local economic base – expansions, closures, redundancies, prosecution etc.
- Closure (or re-opening) of a rural shop or rural or urban Post Office.

#### **4.5 Emergency Planning**

- Emergencies/Incidents of significance.
- Training/Exercise events.
- Community engagement events.
- New Initiatives.

#### **4.6 Libraries**

- Library closures due to refurbishment or emergencies.
- Changes/developments to libraries, re: new services or plans for development or changes to opening hours.
- Changes/reduction in service due to budget pressures or permanent closures of libraries.
- Changes to mobile library routes and arrival times.
- Key visitors to Divisions.

#### **4.7 Museums**

- Museums achievements and archaeological investigations.
- Museums developments, including closures or reductions in hours.
- Key visitors to Divisions.

#### **4.8 Adult Education**

- Local events, activities, presentations within the Adult Education Service.

#### **4.9 Norfolk Fire and Rescue Service**

- Variations to standards of fire cover e.g. changes to location of stations,

- number and type of fire appliances, numbers of firefighters.
- Initiatives relating to community safety.
- Key visitors to Divisions

#### **4.10 Customer Services**

- Proposals or changes relating to divisional or major customer access arrangements.

#### **4.11 Corporate Property Team (or agents on instruction)**

- Property reviews
- Property sale particulars.
- Property disposals (freehold/leases over 7 years)
- Planning applications on surplus property or for County Council developments.
- Property acquisitions by lease or purchase.
- Partnership projects.
- Planned maintenance programme for local properties.

### **11. Resource**

#### **5.1 nplaw (Norfolk Public Law)**

- Temporary Traffic Regulation Orders.
- Cycle Track Orders.
- Applications re: common land.

#### **5.2 Corporate Planning and Partnerships Service**

- Initiatives relating to collaborative working with partnership projects, equalities and community relations.

#### **5.3 Governance and Regulatory Services**

- Register Offices - closures/amalgamations.
- Register Offices – change of opening hours.
- Register Offices – details of building projects.
- Applications by venues to be approved for marriage ceremonies.
- Notification of constituents due to receive an M.B.E. and an invitation to the ceremony.
- Notification of visits organised by the Chair's office.

#### **5.4 Communications**

- Informing local Members of divisional news, issues/events.

### **12. Public Health**

- Communicable Disease Outbreaks
- Significant Health Protection Issues
- Launch of any national/countrywide road safety campaigns to be made from local school.

### **13. All Departments**

All departments should notify local Members if they become aware of any proposals for the closure or opening of community facilities, including post offices, bank branches, health facilities etc.

## **Part 10E: Monitoring Officer Protocol**

This protocol has been produced following the recommendation of the District Auditor that guidelines be produced for the benefit of Members and Senior Officers on the role of the Monitoring Officer which in Norfolk is discharged by the Director of Governance.

### **1. Introduction**

This protocol explains the role and functions of the County Council's Monitoring Officer and the arrangements for ensuring this role is effectively carried out. It is based on the understanding that the ability of the Monitoring Officer to undertake this role effectively depends on excellent working relations with colleagues and Members and on the flow of information and access to debate particularly at early stages.

### **2. Functions**

The specific functions of the County Council's Monitoring Officer are detailed in the Appendix. The chief responsibilities can be summarised as these:

- (a) A duty to report to the Council in any case where the Monitoring Officer is of the opinion that any proposal or decision is or is likely to be illegal or to constitute maladministration. These matters are referred to in this Protocol as "reportable incidents".
- (b) A range of functions relating to Members' conduct.
- (c) Specific functions under the Council's Constitution.

### **3. Discharge of Functions**

3.1 In order to ensure the effective undertaking of these duties, the Monitoring Officer will:

- (a) Have regular meetings with each of the Head of Paid Service, Executive Director Finance & Commercial Services and Commercial Services, and Assistant Director of Governance (Democratic and Regulatory Services )to review current and likely future issues with legal, constitutional or ethical implications.
- (b) Maintain good liaison and working relations with the District Auditor.
- (c) Ensure that the County Council is kept up to date on new legislation and changes in the law which are relevant to the carrying out of the County Council's activities. This will generally take the form of reports to Members and briefing notes to Chief Officers but where appropriate will involve training sessions for relevant Members and Officers. These activities will be carried out in consultation and conjunction with relevant Chief Officers.



3.2 In addition, Chief Officers will ensure that:

- (a) The Monitoring Officer, their Deputy and the Senior Officers at nplaw are consulted at an early stage on new policy proposals and on matters which have potentially significant legal implications. Where there is any doubt, the Chief Officer should always consult.
- (b) All draft reports to the Council and Committees should as a matter of routine be cleared with the Monitoring Officer, Deputy or the senior staff at nplaw.
- (c) The Monitoring Officer is informed of all emerging issues of concern of a legal, ethical or constitutional nature.

Similarly, Members should ensure that the Monitoring Officer is routinely informed and consulted in respect of new policy proposals.

The Monitoring Officer will always seek to resolve any potential illegality by identifying alternative and legitimate means of achieving the objective of the purpose. (See also para. 3.5(a)).

3.3 Also, in cases where external Lawyers are acting for the County Council, it will be necessary for the relevant Chief Officer and the Monitoring Officer to agree arrangements for ensuring that vires and constitutional issues are satisfactorily addressed.

- 3.4
- (a) The Monitoring Officer will seek to resolve potential reportable incidents (as defined in para 2(a)) by avoiding the illegality, etc., or by identifying alternative and legitimate means of achieving the objective of the proposal. Accordingly, and given that County Council Officers and Members are encouraged to consult the Monitoring Officer in respect of any proposal, the Monitoring Officer will only need to make a public report on the matter if the proposal were to be a potential reportable incident and the Officer or Member subsequently took any action to progress that proposal despite being advised to the contrary by the Monitoring Officer.
  - (b) Where the Monitoring Officer receives a complaint of a potential reportable incident, they must in appropriate cases seek to resolve the matter amicably, by securing that any illegality or failure of process is rectified. However, it is recognised that the Monitoring Officer may decide that the matter is of such importance that a statutory report is the only appropriate response.
  - (c) In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer will be entitled to add their written advice to the report of any other County Council Officer.
  - (d) Notwithstanding the above, the Monitoring Officer retains the right to make a statutory report where, after consultation with the Head of Paid Service and the Executive Director Finance and Commercial Services, they are of the opinion that such is necessary in order to respond properly to a reportable incident.

3.5 Finally, and to assist in the effective undertaking of these duties, the Monitoring Officer will have the following rights:

- (a) To receive advance notice of meetings whether formal or informal between Chief Officers and the Leader, Cabinet Members, the Executive or Committee Chairs will be given to the Monitoring Officer where any procedural, vires or other constitutional issues are likely to arise, together with the right to attend such meetings.
- (b) To receive advance notice of meetings of the Council's, Corporate Board, Executive Directors and agenda and reports and the right to attend and speak.
- (c) To see all documents and information held by or on behalf of the County Council, including documents and information held by any Council Officer or Member. However, this right does not extend to documents and information held by or on behalf of any political party represented on the Council.
- (d) To attend any meetings of Officers or Members (or both), whether such meetings include any other persons. However, this right does not extend to any meetings held by or on behalf of any political party represented on the Council.
- (e) To require any County Council Officer or Member, or any contractor to provide an explanation of any matter under investigation.
- (f) To report to the Council, and its Committees, including a right to present a written report and to attend and advise orally.
- (g) To have access to the Head of Paid Service and to the Executive Director Finance & Commercial Services and Commercial Services (as the Council's Section 151 Officer).
- (h) After consultation with the Head of Paid Service and the Executive Director Finance & Commercial Services and Commercial Services, to notify the Police, the Council's Auditors and other regulatory agencies of concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions.
- To obtain, at the Council's expense, legal advice, either internally or from an independent external Solicitor or Barrister, on any matter which it is believed may be a reportable incident.

#### **4. Conflicts**

Where the Monitoring Officer is in receipt of a complaint or is aware of a potential reportable event relating to a matter upon which they have previously advised the County Council, they must consult the Head of Paid Service who may then either refer the matter to the Deputy Monitoring Officer for investigation and report back to the Head of Paid Service or request a neighbouring authority to make their Monitoring Officer available to the County Council to investigate the matter and report to the Head of Paid Service and/or the County Council as appropriate.

## **Functions of Monitoring Officer**

### **A. Functions under Section 5 of the Local Government and Housing Act 1989**

To report to the Council in any case where the Monitoring Officer is of the opinion that any proposal or decision of the authority in respect of any matter which, in their opinion, has given rise to or is likely to or would give rise to any illegality or maladministration.

### **B. Functions relating to Standards**

- (1) To act as the principal adviser to the Standards Committee and in that role to contribute by training and otherwise to the provision and maintenance of high standards of conduct.
- (2) To maintain the Register of Members' Interests and in this connection to receive from Members written notification of disclosable pecuniary interests and other interests and to receive written notification of any change to those interests.
- (3) To receive written notification from Members of the existence and nature or any gift or hospitality exceeding £50.
- (4) Dealing with complaints against Members, including the conduct of investigations and reporting to the Standards Committee.
- (5) To process requests from Members for dispensations to speak and vote at meetings.
- (6) To maintain and promote the Council's Anti-Fraud and Corruption Strategy.
- (7) To keep the Code of Corporate Governance under review.

### **C. Functions relating to the Constitution**

- (1) To refer matters relating to conduct, ethics and propriety to the Standards Committee.
- (2) To monitor the operation of the Constitution and to make recommendations on how it can be amended in order to better to achieve the overall purposes. This may include observing meetings of different parts of the Member/Officer structure; undertaking an audit trail of a sample of decisions; recording and analysing issues raised by Members, Officers, the public and other relevant stakeholders; and comparing practices in this authority with those in other comparable authorities, or national examples of best practice.

- (3) To be consulted by the Assistant Director of Governance (Democratic and Regulatory Services) on changes to factual references in the Constitution or changes required by a change in the law. Also, to publish changes to the Constitution.
- (4) To publicise the Constitution by ensuring that access is given to each Member on their being elected to the Council; ensuring that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local media and the public on payment of a reasonable fee; ensuring that the executive summary is made widely available within the area and is updated as necessary; and ensuring the publication of changes made.

## **Part 11 – Finance, contracts and legal matters**

### **11.1 Financial Management**

- 11.1.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Appendix 15 of this Constitution.

### **11.2 Contracts**

- 11.2.1 Every contract made by the Council will comply with the Contract Standing Orders set out in Appendix 16 of this Constitution.
- 11.2.2 In addition, the Executive Director, Finance and Commercial Services and Director of Governance are each authorised to certify contracts under the Local Government (Contracts) Act 1997 and to nominate deputies for this purpose.

### **11.3 Legal Proceedings**

- 11.3.1 The Director of Governance is authorised to institute, defend or participate in and settle any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Director of Governance considers that such action is necessary to protect or pursue the Council's interests. In the case of proceedings of special significance, the Director of Governance is expected to consult with the Head of Paid Service although failure to do so will not invalidate the action taken.
- 11.3.2 In addition, Chief Officers and the Head of Trading Standards are authorised to institute criminal proceedings in respect of matters falling within their areas of responsibility.
- 11.3.3 Other powers to institute legal proceedings are set out in the Scheme of Delegated Powers to Chief Officers in Appendix 5 of this Constitution.

### **11.4 Authentication of Documents**

- 11.4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Director of Governance or other person authorised by them, unless (a) any enactment otherwise authorises or requires, or (b) the Council has given requisite authority to some other person or (c) the document relates to criminal proceedings instituted by a Chief Officer or the Head of Trading Standards in which case that officer has this authority.
- 11.4.2 Any award with a value exceeding £30,000 entered into on behalf of the Council must be evidenced by way of a contract. Such contracts must either be signed by at least two authorised officers of the Council or made under the common seal of the Council attested by at least one authorised officer.

## **11.5 Common Seal of the Council**

- 11.5.1 The Common Seal of the Council and its electronic equivalent will be kept in a safe place in the custody of the Director of Governance. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal or its electronic equivalent will be affixed on those documents which in the opinion of the Director of Governance should be sealed. The affixing of the Common Seal will be attested by the Director of Governance or some other person authorised by them.

## **Part 11A: Access to Information Procedure Rules**

### **1. Meetings**

- 1.1 Procedure Rules 1.2-1.8 below apply to all meetings of the Council, Cabinet, the Council's Committees and Joint Committees.

### **2. Rights to attend meetings**

- 2.1 Members of the public and the media may attend all meetings, subject to the exceptions specified in the particular rules that govern meetings of the Council, the Cabinet and the Council's Committees and Joint Committees as well as the exceptions below.

### **3. Notice of meeting**

- 3.1 The Assistant Director of Governance (Democratic and Regulatory Services) will give at least five clear days' notice of any meeting by posting details of the meeting at County Hall, Norwich and on the Council's website.

### **4. Access to agenda and reports before the meeting**

- 4.1 The Assistant Director of Governance (Democratic and Regulatory Services) will make copies of the agenda and reports available for public inspection at County Hall and on the Council's website at least five clear days before the meeting. If an item is later added to the agenda, the revised agenda will be open to public inspection from the time the item was added to the agenda. Where reports are prepared after the agenda has been sent out, the Assistant Director of Governance (Democratic and Regulatory Services) will make such reports available for public inspection as soon as the report is sent to Members.
- 4.2 The Assistant Director of Governance (Democratic and Regulatory Services) may withhold reports, or appendices to reports, from public inspection if they consider the reports contain exempt or confidential information (as defined in paragraphs 8 and 9 of these Rules). Such reports will be marked "Not for publication" and the exemption category of information indicated and will be printed on pink paper. The Council is committed to transparency and will keep information withheld from public inspection to the minimum necessary.

### **5. Exclusion of the Media and Public from Meetings**

- 5.1 The media and 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 (as defined in paragraph 8 of these Rules) will be disclosed.
- 5.2 The media and 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 (as defined in paragraph 9 of these Rules) will be disclosed.

- 5.3 The decision to exclude the media and the public must be made after considering the public interest test, by a resolution of the meeting which must (in the case of exempt information) state the reasons for the exclusion (by reference to the relevant statutory category) which must be recorded in the minutes of the meeting.

## **6. Access to minutes of meetings**

- 6.1 The Assistant Director of Governance (Democratic and Regulatory Services) will retain and make available for public inspection for six years after a meeting of a decision-making body, copies of the following:
1. the minutes of the meeting, 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;

## **7. Supply of copies**

- 7.1 Following a request by any person and on payment by them of a reasonable charge to meet copying and clerical costs, the Council will supply copies of any agendas, reports, minutes and records of decisions which are open to public inspection, although any requestor will be encouraged to use electronic copies that are readily available.

## **8. List of background documents**

- 8.1 The author of any report will set out in the report a list of background documents 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. have been relied on to a material extent in preparing the report (not including published works or those which disclose exempt or confidential information as defined in paragraphs 8 and 9 of these Rules).

## **9. Public inspection of background documents**

- 9.1 The Head of Paid Service and Chief Officers are responsible for ensuring that one copy of each background document included in the list of background documents is retained and made available for public inspection and published on the Council's website after the date of any meeting or decision.

## **10. Summary of public's rights**

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



- 10.2 A summary of the public's rights to attend meetings and to inspect and copy documents will be retained and made available to the public at County Hall, Norwich.

## **11. Rights of access for Members generally**

- 11.1 Under Section 100F of the Local Government Act 1972, a Member has a right to see any document in the possession of, or under the control of, the Council relating to any business to be transacted at a meeting of the Council, a Committee or Sub-Committee. However, the Assistant Director of Governance (Democratic and Regulatory Services ) has the power to withhold any such document which in their opinion contains exempt information of certain types: e.g. relating to individuals, the terms of a proposed contract, consultations or negotiations regarding labour relations matters, or legal proceedings.
- 11.2 A member has a right, under Section 228 of the Local Government Act 1972, to inspect the accounts of the Council and of any proper officer of the Council.
- 11.3 At common law a Member has a right to see any document under the control of the Council if that Member can show a "need to know" the contents of the document in order to perform their duties as a Councillor. A Member is not given a roving commission; nor can inspection be demanded out of idle curiosity or if there is any improper or indirect motive. In the event of a dispute as to whether a Member has a "need to know", the question is to be decided ultimately by the Council itself.
- 11.4 Annex 1 to this Appendix contains a protocol agreed by the County Council for the exercise of the rights of Members to inspect and have copies of documents.
- 11.5 **Confidential information** means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by virtue of a Court Order.
- 11.6 **Exempt information** means information which falls within one or more of the following seven categories and in respect of which, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
1. Information relating to any individual.
  2. Information which is likely to reveal the identity of an individual.
  3. Information relating to the financial or business affairs of any particular person including the authority holding that information. (However, information is not exempt information under this category if it is required to be registered under the Companies Act 2006, the Friendly Societies Acts 1974 and 1992, the Industrial and Provident Acts 1965 to 1978, the Building Societies Act 1986 or the Charities Act 2011).

4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the County Council or a Minister of the Crown and employees of, or office holders under, the County Council.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the Council proposes:
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Information falling within any of the above paragraphs (1) to (7) is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

## **Annex 1 – Protocol relating to Members’ rights to access and copies of documents**

### **1. Introduction**

Members can ask any Senior Officer to provide them with information, explanation and advice so that they can carry out their role as Councillors. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent.

### **2. The Purpose of the Protocol**

The purpose of the protocol in paragraph 4 is to help clarify for Members what they are entitled to see, and how to go about seeing it, and to give officers clear guidelines about the Members rights. The Council is developing separate arrangements to make sure that Members get to know information in a timely and appropriate manner.

### **3. The Legal Position**

#### **3.1 Statutory Provisions**

Any Member can see documents which contain information relating to the public and private meetings of the Council and its Committees and any decisions to be taken by an individual officer. This statutory right does not extend to certain categories of exempt and confidential information.

#### **3.2 The Common Law Position**

(a) The common law right of Members is much wider than this and is based on the principle that any Member has a *prima facie* right to inspect any Council documents *if access to the documents is reasonably necessary to enable the Member properly to perform their duties as a Member of the Council*. This principle is commonly referred to as the "need to know" principle.

(b) The exercise of this common law right depends upon the Member's ability to demonstrate a "need to know". In this respect, a Member does not have "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is whether there is a "need to know".

#### **3.3 Data Protection**

Data protection legislation restricts the processing of information relating to individuals. As a result, any such information cannot be shared without the agreement of that individual or unless one of the legal exemptions applies.

### **4. The Protocol**

Against this background the Council has agreed the following protocol: -

- (2) An initial request should be made to the relevant Senior Officer and in this the Member

should: -

- (a) identify what they need to see;
- (b) state the reason(s) that they need to see it; and
- (c) make it clear whether they have a personal interest in the matter (as defined in the Members' Code of Conduct) and if so, what it is.

The Senior Officer is entitled to ask the Member to make this request in writing if they are in any doubt about any of these matters.

- (3) Any officer who is in any reasonable doubt regarding the release of the information will consult the Monitoring Officer for advice.
- (4) If, after receiving this advice, it is not considered appropriate to release the information either because:

- the Member has not established a need to see it, or
- because the officer has other concerns (for example the Councillor has personal interest in the matter, the information is commercially or otherwise sensitive, or the amount of work involved in identifying and producing the information is considered to be excessive)

and the Member takes a different view, the matter will be referred to the Head of Paid Service, who will consult the relevant Group Leader before making a decision.

- (5) Any information provided must be only used in connection with the Members' duties as a Councillor, e.g. speaking at a relevant Committee or at full Council. Information not already in the public domain should not be divulged to third parties (including the press) nor should information be used improperly.
- (6) Finally, the effect of the Data Protection legislation is that information relating to an individual should not be provided unless either the individual has agreed to its release or one of the legal exemptions applies. As a result, any Member wishing to obtain access to personal information should first seek that person's consent. A form is provided for this purpose. If that consent is not given, or there is a difficulty with requesting it, then legal advice should be sought.

## **Annex 2 – Protocol relating to the disclosure of information held by the Council in relation to Members**

- (1) The County Council on its computer systems or premises holds a significant amount of information that is received or created by Councillors. The County Council complies with its legal obligations to ensure the security of data that it holds. Save for information created or received by a Councillor for private or political purposes, other information created or received by a Councillor will be regarded as held by the County Council.
- (2) Councillors have the right to expect that information that relates to them and produced by them which is held by the Council, will not be accessed and/or disclosed to third parties without their written consent or as may be required by law.

## **Part 11B: – Budget and Policy Framework Procedure Rules**

These Rules include the standing orders required by Regulation 3 (i) (b) (ii) and Part II of Schedule 2 to the Local Authorities (Standing Orders) (England) Regulations 2001(as amended).

### **2. The framework for Budget and Policy Framework decisions.**

- 2.1 The Full Council approves the Budget and Policy Framework as set out in Part 4 of this Constitution.

### **3. Process for developing the Policy Framework**

- 3.1 Once a budget or a policy or a strategy within the Policy Framework is in place, it is the responsibility of the Leader to ensure its implementation.
- 3.2 The process for proposing the adoption or amendment of a plan or a strategy within the Policy Framework is:
- (1) When the adoption or amendment of a policy or strategy that forms part of the Policy Framework is to be proposed, the Leader will publish to all Council Members a timetable for making proposals to the Council, and arrangements for consultation on those proposals. This may include a debate by the full Council at the time any draft document is published for consultation.
  - (2) Before commenting to the Leader or Executive on the topic and proposals, the Scrutiny Committee may:
    - (a) take evidence from Cabinet Members and officers
    - (b) commission research within budgeted resources
    - (c) consult Norfolk organisations and electors or other organisations and persons.
  - (3) Having considered any report by the Scrutiny Committee, the Leader or Executive will agree proposals for submission to the Council and report to Council on how any recommendations from the Scrutiny Committee have been taken into account.
  - (4) The Council will consider the proposals and may:
    - (a) adopt them
    - (b) amend them
    - (c) refer them back to the Leader for further consideration
    - (d) substitute its own proposals in their place
  - (5) In considering the matter, the Council will have before it the report from the Leader or Executive and the Scrutiny Committee, including a report of any minority views expressed in that Committee's debate.

- (6) The Council's decision must be published, and a copy must be given by the Assistant Director of Governance (Democratic and Regulatory Services )to the Leader. The notice of decision will be dated and will either:
  - (a) state that the decision will be effective immediately (if the Council accepts the proposals without amendment or if the Leader has consented to any amendment(s) during or following the debate);
  - (b) or (if the Council has any objections to the proposals), specify the objections and instruct the Leader that the Executive is required to reconsider, in the light of the objections, the proposals which were submitted to Council. The notice must specify a period of 5 working days beginning on the day after the Leader receives the notice, within which the Leader may:
    - (i) submit for the Council's consideration a revision of the proposal as amended by the Executive, with the Executive's reasons for any amendments to the draft proposal; or
    - (ii) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for and such disagreement.
- (7) If the Council has raised objections to a draft proposal as in (6) (b) above, the matter will be reconsidered by the Council at its next meeting. The Council must at that meeting, before making its final decision on the matter, take into account:
  - (a) any amendments made to the draft proposals
  - (b) the Executive's reasons for the amendments
  - (c) any disagreement that the Executive has with any of the Council's objections and the reasons for that disagreement

which the Leader has submitted to the Council or informed the Council within the period specified. The Council will make its final decision based on a simple majority. The decision will then be published and take effect immediately.

- (8) In approving any part of the Policy Framework, the Council may also specify the extent to which amendments, modifications or variations to that part of the Policy Framework may be made by the Executive.
- (9) The Head of Paid Service and Chief Officers may amend the text of approved documents to update information, reflect changes in the law or other matters not affecting the substance of the policy or strategy subject to prior notification of such changes to the Leader, any relevant Cabinet Member and the Chair of the Scrutiny Committee.

#### **4. Procedure for developing the Budget**

- 4.1 The process for proposing the Budget, Council Tax level, Capital Programme and Borrowing is:
  - (1) the Leader will publish to all Council Members each autumn a review of the issues relating to the Budget for the next financial year and a timetable of the arrangements for the preparation and agreeing of the Budget;

- (2) these issues may be considered by the Scrutiny Committee, who may make submissions to the Leader in accordance with the timetable;
- (3) the Leader will publish a draft Budget no later than three weeks before the Budget meeting of the Council and will submit the draft Budget to the Scrutiny Committee for consideration prior to its submission to the Council;
- (4) the Council will consider the Leader's budget proposals and may:
  - (a) adopt them
  - (b) amend them
  - (c) refer them back to the Leader for further consideration
  - (d) substitute its own proposals in their place.
- (5) In considering the budget, the Council will have before it the report from the Leader or Cabinet and any comments of the Scrutiny Committee;
- (6) If the Council's budget meeting is held before 8th February, the following procedure will apply:

the Council's decision will be published, and a copy given by the Assistant Director of Governance (Democratic and Regulatory Services )to the Leader no later than the day following the meeting. The notice of decision will be dated and will either:

- (a) state that the decision will be effective immediately (if the Council accepts the proposals without amendment or if the Leader has consented to any amendment(s) during or following the debate); or
- (b) if the Council has any objections to the budgetary proposals, then before it reaches a decision on the budget, it must inform the Leader of the objections and instruct the Leader that the Executive is required to reconsider, in the light of the objections, the budget proposals. The notice will specify a period of five working days beginning on the day after the Leader receives the notice, within which the Leader may:
  - (i) submit for the Council's consideration a revision of the budget proposals as amended by the Executive, which have been reconsidered in accordance with the Council's requirements, with the Executive's reasons for any amendments made to the budget proposals: or
  - (ii) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.
- (7) If the Council has raised objections to the draft budget proposals as in (7) (b) above, the matter will be reconsidered by the Council at a meeting to be held no later than 7 working days after the original meeting. The Council must at that meeting, before making a final decision on the budget, take into account:
  - (a) any amendments made to the budget proposals
  - (b) the Executive's reasons for those amendments
  - (c) any disagreement that the Executive has with any of the Council's objections
  - (d) the Executive's reasons for that disagreement

which the Leader has submitted to the Council, or informed the Council of, within the period specified. The Council will make its final decision based on a simple majority.



The decision will then be published and take effect immediately.

- (8) If the Council's budget meeting is held on or after 8th February, there will be no provision for objections to be referred to the Executive and the Council's decisions on the budget will be final and based on a simple majority.

## **5. Decisions at variance with the framework**

- 5.1 The Leader, the Cabinet, the Council's Committees, Cabinet Members and any officers, Joint Committees or bodies discharging executive functions of the Council under joint arrangements cannot take decisions which would be:

- (1) contrary to the Policy Framework (unless the Council has delegated to the Executive the power to vary the plan or strategy in question);
- (2) contrary to or not wholly in accordance with the budget and provisions in Contract Standing Orders or Financial Regulations in respect of the budget;
- (3) contrary to or not wholly in accordance with the plan or strategy for the control of the Council's capital expenditure or borrowing and provisions in Contract Standing Orders or Financial Regulations in respect of such a plan or strategy;

All decisions described in (1), (2) and (3) above can only be taken by the full Council except in the circumstances set out in the Urgent Decisions at Variance to the Budget and Policy Framework process as below.

- 5.2 If the Leader, the Cabinet, the Council's Committees, individual Cabinet Members and any officers, Joint Committees or bodies discharging executive functions want to make a decision that they consider might be contrary to the budget and policy framework, they must take advice from the Monitoring Officer (in the case of the policy framework) and/or Chief Finance Officer (in the case of the budget) as to whether the decision they want make would be contrary to the policy framework or contrary to or not wholly in accordance with the budget.
- 5.3 If, following consultation with the Head of Paid Service and relevant Chief Officer, the advice of either of Monitoring Officer or Chief Finance Officer is that the decision would not be in line with the existing budget and/or policy framework, then the proposed decision must be referred by the Leader or Executive to the Council, unless the decision is a matter of urgency, in which case the procedure below in paragraph 3.9 will apply.
- 5.4 Also, if following consultation with the Head of Paid Service and relevant Chief Officer, the Monitoring Officer or Chief Finance Officer consider that a proposed decision is not in line with the budget and/or policy framework, irrespective of whether they have been consulted by the decision-taker, that decision may only be taken by the Council.
- 5.5 The procedure to be used in such circumstances is:
- (1) If the decision is one that would otherwise be taken by an officer it must instead be referred to the Leader or Executive;
  - (2) The Leader or Executive will refer the matter with a recommendation to the Council to decide;
  - (3) The matter will be considered at the next meeting of the Council when the Council

may:

- (a) agree the decision be taken
- (b) amend the Budget or Policy Framework to reflect the decision
- (c) reject the proposed decision
- (d) ask the Leader or Executive to reconsider the matter.

- (4) In the event of a decision being referred back to the Leader or Executive by the Council, the Leader or Executive must reconsider the matter on the basis of a report setting out the comments expressed and confirm, rescind or amend the decision in the light of those comments. The reconsidered decision will be reported back to the full Council for further consideration. The decision taken by the full Council will be final based on a simple majority.

5.6 A decision will not take effect until the process set out in sub-paragraphs (1)-(4) above has been completed.

5.7 If, following advice from the Head of Paid Service, Monitoring Officer, Chief Finance Officer or relevant Chief Officer, the Scrutiny Committee consider that a decision which has been taken is contrary to the policy and/or budget framework, it may refer the decision to Council. In such cases the Council could either:

- (1) determine that the decision was contrary to the policy and/or budget framework and therefore a matter for Council to decide and take the decision itself; or
- (2) determine that the decision was not contrary to the policy and/or budget framework and therefore a matter for the Executive to decide. In this case, the Council would have the option of requesting that the decision maker reconsider the decision if it believed that a different decision would have been more appropriate.

## **6. Urgent Decisions at Variance to the Budget and Policy Framework**

6.1 If a decision at variance to the budget and policy framework has to be taken for reasons of urgency before the procedures set out above would otherwise be completed, it may be taken provided that the Chair of the Scrutiny Committee has been consulted and the following procedure is followed:

- (1) The Head of Paid Service or relevant Chief Officer, in consultation with the Monitoring Officer agree that the making of the decision is a matter of urgency and cannot reasonably be deferred; and
- (2) the individual or body by whom the decision is to be made obtains from the Chair of the Scrutiny Committee, or if that person is unable to act, from the Chair of the Council or, in their absence, from the Vice-Chair, agreement in writing that the decision needs to be made as a matter of urgency
- (3) the individual or body by whom the decision is made must submit, as soon as reasonably practical after the decision has been made, a report to the full Council giving details of:
  - (a) the decision;
  - (b) the reasons why it was urgent;
  - (c) the reasons for the decision

If agreement is not obtained as in (2) above, the matter must be referred to the full Council for decision.

## **Part 11C: FINANCIAL REGULATIONS**

### **Background**

- A. The County Council's governance structure is laid down in the Constitution, which sets how the County Council operates; how decisions are made; and how procedures are followed.
- B. The County Council has adopted a Cabinet and Leader form of governance.
- C. Elected Members are responsible for "ownership" of the County Council's financial management. Responsible Budget Officers (RBOs) act on behalf of the County Council in exercising that responsibility and in securing compliance with the County Council's Financial Regulations.
- D. The County Council's Head of Paid Service is responsible for the corporate and strategic management of the County Council. The Head of Paid Service must report to, and provide information for, the County Council, its Cabinet and Committees. Furthermore, the Head of Paid Service is responsible for establishing a framework for management direction, style, and standards, and for monitoring the performance of the organisation. The Head of Paid Service is also responsible, together with the Monitoring Officer (Director of Governance), for the system of record keeping in relation to all the County Council's decisions.
- E. The Statutory Finance Officer, the Executive Director of Finance and Commercial Services at Norfolk County Council, has statutory duties in relation to the administration and stewardship of the County Council's financial affairs. This statutory responsibility cannot be overridden. The statutory duties arise from the legislation referenced in 2.5.3.
- F. The Executive Director of Finance and Commercial Services is responsible for the proper administration of the County Council's financial affairs and for setting and monitoring compliance with agreed standards of financial administration and management, including advice on the County Council's corporate financial position. The Executive Director of Finance and Commercial Services is also the "head of profession" for all finance staff in the County Council and has a responsibility for their professional standards, competencies, training, and development. Within these Financial Regulations, the terms Statutory Finance Officer, Chief Finance Officer, and Section 151 Officer all refer to the Executive Director of Finance and Commercial Services.

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## **1. Status of Financial Regulations**

### **1.1. Purpose and Scope**

- 1.1.1. These Financial Regulations provide the basis for managing the County Council's financial affairs. They provide a framework for decision-making, which sets out how specific statutory powers and duties are complied with, as well as reflecting best professional practices. This document also acts as a reference point to other documents which include the detailed policies and procedures behind these Financial Regulations.
- 1.1.2. The Financial Regulations apply to every elected Member and officer of the County Council and, when stated, to third parties acting specifically on its behalf. The Regulations apply to all Norfolk County Council's financial arrangements, including joint committees, save where there is express agreement to the contrary.

### **1.2. Key Roles and Responsibilities**

- 1.2.1. The Regulations identify the financial responsibilities of the County Council, Cabinet and its Committees, the Executive Director of Finance and Commercial Services and other Executive Directors.
- 1.2.2. All elected Members and staff have a general responsibility for taking reasonable action to provide for the security of the County Council's assets under their control, and for ensuring that the use of these resources is legal, properly authorised, and provides value for money.
- 1.2.3. The Executive Director of Finance and Commercial Services is responsible for maintaining a continuous review of the Financial Regulations and for submitting any additions or changes necessary to County Council for approval and at a minimum annually. Elected Members are responsible for considering and approving the County Council's Financial Regulations and for satisfying themselves that they are sufficient to ensure sound financial management of the County Council's resources.
- 1.2.4. The Executive Director of Finance and Commercial Services is responsible for reporting, where appropriate, breaches of the Financial Regulations to the County Council, Cabinet, and the Audit Committee.
- 1.2.5. The Executive Director of Finance and Commercial Services is responsible for issuing advice and guidance on the operation of the Financial Regulations. The County Council's detailed 'Financial Procedures', which support these Regulations, are determined by the Executive Director of Finance and Commercial Services and set out how the Regulations will be implemented.

Financial Procedures are described in separate guidance and have the same status as the Financial Regulations.

- 1.2.6. Executive Directors are responsible for ensuring that all staff in their departments are aware of the existence and content of the County Council's Financial Regulations, Financial Procedures, and other internal regulatory documents and that they comply with them at all times. They must ensure that all staff have access to, or the opportunity to access, these Regulations, Procedures and other regulatory documents either published on the County Council's internet or intranet ([MyNet](#)) pages as appropriate.

1.2.7. The Executive Director of Finance and Commercial Services is responsible for ensuring that both elected Members and officers are sufficiently competent, trained and informed regarding the financial affairs of the Council.

## **2. Financial Management**

### **2.1. Introduction**

2.1.1. Financial management covers all financial activities in relation to the running of the County Council, including the policy framework and budget. In overall terms, elected Members are responsible for agreeing the financial policy framework and officers are responsible for advising Members, and for the operational delivery of financial processes in line with the agreed policy. The financial management responsibilities for particular Members' groups and individual post-holders are detailed in this section.

### **2.2. The Council**

2.2.1. The County Council is responsible for adopting and changing the principles of governance and for approving or adopting the policy framework and budget within which the Council operates.

2.2.2. The principles of decision making, and the roles of the Leader, Cabinet, Select Committees, and Scrutiny Committee are set out in Parts 6, 7 and 12 of the Norfolk County Council Constitution.

### **2.3. The Cabinet**

2.3.1. The Cabinet is responsible for all the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

### **2.4. Scrutiny Committee**

2.4.1. Scrutiny Committee reviews or scrutinises decisions made, or other action taken in accordance with:

- i) any functions which are the responsibility of the Executive, including decisions made/actions taken directly by the Executive itself and those decisions/actions delegated to Chief Officers and individual Members of the Executive; and
- ii) any functions which are not the responsibility of the Executive.

### **2.5. Statutory Officers**

#### **2.5.1. The Head of Paid Service**

The Head of Paid Service is accountable to the County Council and Cabinet for the manner in which the discharge of the Council's functions is coordinated.

#### **2.5.2. The Monitoring Officer (Director of Governance)**

The Monitoring Officer is responsible for maintaining an up-to-date version of the Constitution and contributing to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee. They are also responsible, in conjunction with the Head of Paid Service and the Executive Director of Finance and Commercial Services, for reporting to the County Council and Cabinet if they consider



that any proposal, decision, or omission would give, is likely to give, or has given, rise to a contravention of any enactment or rule of law, or any maladministration or injustice. Such a report has the effect of stopping the proposal or decision being implemented until the report has been considered. The Monitoring Officer will also provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Members.

### **2.5.3. The Chief Finance Officer (Executive Director of Finance and Commercial Services)**

The Council has designated the Executive Director of Finance and Commercial Services as the Chief Finance Officer. The Chief Finance Officer has statutory duties in relation to the financial administration and stewardship of the Council. The statutory duties arise from:

- Section 151, Local Government Act 1972
- The Local Authorities Goods and Services Act 1970 and 1988
- Section 114, Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Local Government Acts 2000 and 2003
- The Accounts and Audit (England) Regulations 2015
- The Local Government Pension Scheme Regulations 1974 and 1997
- The Local Government Pension Scheme Regulations (Management and Investment of Funds) 1998
- The Localism Act 2011

There are other Statutory Officer roles as set out within the Constitution, these include: Executive Director of Children's Services, Executive Director of Adult Social Services, Chief Fire Officer and Director of Public Health.

### **2.6. The Money Laundering Reporting Officer**

2.6.1. The Director of Governance is appointed as the Money Laundering Reporting Officer and the Head of Legal Services, nplaw and the Chief Internal Auditor as the Deputy Money Laundering Reporting Officers. The Council has an Anti-Money Laundering Policy and Procedures in place. The Money Laundering Reporting Officer is the officer responsible for reporting disclosures to the National Crime Agency.

### **2.7. Executive Director of Finance and Commercial Services**

2.7.1. The Executive Director of Finance and Commercial Services has statutory duties in relation to the financial administration and stewardship of the County Council. This statutory responsibility cannot be overridden.

2.7.2. The Executive Director of Finance and Commercial Services is also subject to compliance with Statements of Professional Practice issued from time to time.

2.7.3. The role of Executive Director of Finance and Commercial Services complies with the principles in the CIPFA best practice statement on the "Role of the Chief Financial Officer in Local Government." This statement confirms that the Executive Director of Finance and Commercial Services is not only a servant of the Council, but also has a fiduciary responsibility to local taxpayers as a trustee of public monies.

2.7.4. The Executive Director of Finance and Commercial Services is responsible for:

- the proper administration of the County Council's financial affairs
- ensuring adherence to accounting standards
- setting and monitoring compliance with financial management standards
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management, including the level of balances, closure of accounts and statement of accounts
- setting the framework for reporting financial implications to Cabinet
- providing financial information on the corporate position of the County Council
- providing financial advice and information on all the County Council's services
- preparing the overall revenue budget and capital programme, including the three-year rolling medium term financial strategy
- preparing the Strategic Asset Management Plan
- reporting on the robustness of the estimates made for the purposes of budget calculations, and the adequacy of proposed financial reserves
- effective administration of the treasury management function and aspects of pension fund administration and investment
- preparing the prudential indicators and ensuring adherence to the authorised limits set by Council
- defining standards of financial administration and management throughout the County Council
- defining the competencies of finance employees and for the delivery of effective and appropriate training and development opportunities to those employees
- advising on the adequacy and effectiveness of internal systems of control and internal audit
- delivering appropriate financial training to Members and non-financial staff

2.7.5. The Executive Director of Finance and Commercial Services has the Head of Profession role for all finance staff in the County Council and has a responsibility for their professional standards, competencies, training, and development. This includes ensuring that procedures are in place to enable Finance Business Partners for each service to concurrently support the Executive Director of Finance and Commercial Services and their Service Executive Director on key financial matters. Finance Business Partners report to the Director of Financial Management.

2.7.6. The Head of Profession role of the Executive Director of Finance and Commercial Services carries the statutory responsibility laid down by Section 151 of the Local Government Act 1972 to "make arrangements for the proper administration of the County Council's financial affairs." The Director of Financial Management performs the role of the Deputy Section 151 Officer.

2.7.7. Section 114 of the Local Government Finance Act 1988 requires the Executive Director of Finance and Commercial Services to report to each Member of the Council, and the External Auditor, if it appears to them that the authority, the County Council's Cabinet, a joint committee on which the County Council is represented, or one of its officers:

- has made, or is about to make, a decision which involves the County Council incurring unlawful expenditure
- has taken, or is about to take, a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency to the County Council
- is about to make an unlawful entry in the County Council's accounts.

2.7.8. Details of the process which would be followed in the event of a report being issued under section 114 of the Local Government Finance Act 1988 are set out in Annex B. Section 114 of the 1988 Act also requires:

- the Executive Director of Finance and Commercial Services to nominate a properly qualified member of staff to deputise if he or she is unable to perform personally, the duties under section 114. The Director of Financial Management is nominated to deputise for the Executive Director of Finance and Commercial Services.
- the Authority to provide the Executive Director of Finance and Commercial Services with sufficient staff, accommodation, and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

2.7.9. The Executive Director of Finance and Commercial Services is responsible for ensuring that all services are appropriately supported by skilled finance professionals. The Executive Director of Finance and Commercial Services is assisted in providing strategic financial support to services by Finance Business Partners.

## **2.8. Corporate Board**

2.8.1. In addition to individual responsibilities, the Leader, Deputy Leader and Executive Directors (including the Head of Paid Service) form the Corporate Board, which, acting together and corporately is responsible for:

- advising on draft financial policies for consideration by Cabinet.
- working closely with Cabinet in developing financial policies.
- being the primary mechanism for collectively ensuring the delivery of the Council's corporate financial policies.

## **2.9. Executive Directors**

2.9.1. Executive Directors are responsible:

- for ensuring that the Council is advised of the financial implications of all proposals relating to their respective services and for ensuring that the financial implications have been agreed by the Executive Director of Finance and Commercial Services;
- for consulting with the Executive Director of Finance and Commercial Services and seeking approval on any matter liable to materially<sup>1</sup> affect the County Council's finances before any commitments are entered or incurred. This includes notification to the Executive Director of Finance and Commercial Services as soon as possible in the event of identification of overspending or of a shortfall in income against the budget approved by the Council; and
- for ensuring that budget monitoring is undertaken monthly, and that costs are contained within budget. In the event of identification of overspending or a shortfall in income against the budget, Executive Directors are responsible for ensuring that corrective action is managed in a rigorous manner.

2.9.2. Executive Directors should maintain a written record where decision-making has been delegated to members of their staff, including seconded staff.

2.9.3. Executive Directors' role includes working with outside bodies and accessing additional funds and resources to support the County Council's programme of work.

<sup>1</sup> I.e. significantly impact on the Council's financial position

2.9.4. Executive Directors, in consultation with the Director of Procurement, are responsible for evaluating planned capital projects within their services, and capital contracts as they fall due for replacement or extension, in order to:

- identify any potential to reduce whole-life carbon emissions.
- consider the optimum balance between price and low carbon which can be achieved; and
- ensure that any identified cost pressures linked to carbon reduction in respect of their capital projects are provided for within capital budgets.

2.9.5. Executive Directors, in consultation with the Director of Procurement, are responsible for evaluating contracts within their services as they fall due for replacement or extension, and proposals for new contracts, in order to:

- identify any potential to reduce carbon emissions.
- consider the optimum balance between price and carbon reduction opportunities which can be achieved; and
- ensure that any identified cost pressures linked to carbon reduction in respect of their services are provided for within the Council's budget and Medium Term Financial Strategy.

## **2.10. Other Financial Accountabilities**

### **2.10.1. Accounting Policies**

The Executive Director of Finance and Commercial Services is responsible for ensuring appropriate accounting policies are in place and that they are applied consistently across the County Council.

### **2.10.2. Accounting Records and Returns**

The Executive Director of Finance and Commercial Services is responsible for the accounting procedures and records for the County Council and must ensure that the financial accounts and financial records of the County Council comply with all accounting policies and standards where applicable and that these standards are applied consistently across the County Council.

### **2.10.3. Annual Statement of Accounts**

The Executive Director of Finance and Commercial Services is responsible for ensuring that the annual Statement of Accounts is prepared in accordance with proper practices as required by the Accounts and Audit Regulations 2015. Proper practices include the Code of Practice on Local Authority Accounting in the United Kingdom (the code) and relevant statutory provisions. Council has delegated responsibility for approving the annual Statement of Accounts to the Audit Committee.

## **3. Financial Planning**

### **3.1. Introduction**

3.1.1. The Executive Director of Finance and Commercial Services, in accordance with the strategies, policies and priorities of the County Council, is to be responsible for the

proper administration of the financial affairs of the County Council, including multi-year financial planning and control.

### **3.2. Revenue Budget**

- 3.2.1. The consolidated revenue budget is proposed by the Cabinet and is approved by the County Council. The budget should have regard to proper accounting standards and include a statement of the allocation of resources to different services and projects and to proposed council tax levels. Once the overall budget has been approved by County Council, it cannot be increased by the Cabinet, subject to the arrangements set out in paragraph 3.7.5 below.

### **3.3. Capital Budget**

- 3.3.1. The capital budget is approved by the County Council considering Cabinet's recommendations. The budget should have regard to proper accounting standards and include a statement of the allocation of resources to different services and projects, how the programme is to be funded, and any impact on the revenue budget.

### **3.4. Medium Term Planning and Budget Preparation**

- 3.4.1. The County Council is responsible for agreeing the Council's priorities and policy framework. This sets the overall strategic framework for the County Council's services. The Medium-Term Financial Strategy sets out the approach and financial context for the County Council. The Medium-Term Financial Strategy also gives further detail as to how the County Council will deliver plans and resource services over three years. The County Council is responsible for agreeing a rolling three-year balanced budget and agreeing the council tax precept for the following financial year at the February County Council meeting. Executive Directors are collectively responsible for developing a framework and timetable to deliver medium term planning requirements. This framework will include: review of the planning context and the forward budget planning forecast; service priorities and costs; and provide a structure incorporating the development of medium-term service options including efficiencies, financial implications, risk impact and likelihood assessment; Member engagement, public and stakeholder consultation and the decision-making process.

- 3.4.2. Cabinet is responsible for setting the parameters and providing guidance on the preparation of the budget in consultation with the Executive Director of Finance and Commercial Services. The guidelines will take account of:

- legal requirements
- medium-term planning prospects
- the County Council's core roles
- all available resources including external funding and income
- fluctuations in demand, and inflation
- changes in grant funding
- best value
- government guidelines
- accounting standards
- the Prudential Code
- The County Council Plan
- Strategic Asset Management Plan
- Reserves, general and earmarked

- Arms' length bodies

It will also set out the minimum requirements for preparation of budget proposals including:

- option appraisal and use of whole life costing, comparing the relative costs of the options, over the life of the project. For example, whether to lease, purchase or new build;
- risk assessment and owner;
- equality and rural impact assessment, to ensure all the necessary key cross cutting issues are considered, including equality and sustainability; and
- Budget proposals pro-forma templates where appropriate to ensure that budget proposals are developed on a consistent basis.

3.4.3. The Executive Director of Finance and Commercial Services is responsible for ensuring that rolling three-year revenue and capital budget proposals are prepared on an annual basis for consideration by Cabinet. Cabinet is responsible for ensuring that the three-year revenue and capital budget proposals are robust and underpinned by an adequate level of reserves before submission to the County Council. Cabinet will publish to all County Council Members each autumn the financial context for forward financial service planning, a review of the issues relating to the budget for the following financial year, and a timetable for the preparation and approval of the budget. This timetable will take account of the need for discussion and review of the proposals by Select Committees and the Scrutiny Committee and of the need for statutory and other consultation on the budget proposals.

3.4.4. It is the responsibility of Executive Directors to ensure that proposals are prepared in accordance with the guidance, to ensure that budgets are set on a sound financial basis and in accordance with best practice including ensuring that they have been risk assessed.

3.4.5. The Executive Director of Finance and Commercial Services is responsible for ensuring that proposals demonstrate adherence to the guidance and Members should ensure that any proposed budget amendments are made available to the Executive Director of Finance and Commercial Services at least five working days before the County Council budget meeting. Members should adhere to any agreed protocol for budget amendments. Members' proposed budget amendments must be finalised two working days before the County Council budget meeting in order that the Executive Director of Finance and Commercial Services can report on the robustness of any proposed budget amendments. In accordance with established culture and practice, proposed budget amendments received in accordance with Financial Regulations will be published in advance of the County Council meeting at which they are to be discussed.

3.4.6. The County Council will consider the budget proposals and may adopt them, amend them, or substitute its own proposals in their place prior to 1 March. The County Council will agree at least a three-year balanced budget and agree the precept for the following year.

### **3.5. Strategic Asset Management Plan**

3.5.1. The Corporate Property Officer (Director of Property) is responsible for ensuring a Strategic Asset Management Plan is prepared / updated / reviewed on an annual basis for consideration by Cabinet before submission to County Council.

### **3.6. Decisions**

- 3.6.1. All decisions must be undertaken in accordance with the decision-making and reporting framework set out in the Constitution of the County Council and must comply with the County Council's Financial Regulations and Financial Procedures. Details of financial implications must be provided before any financial decision can be taken. Decisions which commit the County Council to spending over £100m must be referred to Full Council<sup>2</sup>.
- 3.6.2. The Executive's Terms of Reference are set out in Part 7 of the Constitution and confirm that Cabinet is responsible for taking key decisions which incur significant expenditure or make significant savings, and decisions which have an impact on a significant proportion of Norfolk's residents. The Head of Paid Service in consultation with the Leader shall determine, in relation to any decision to be taken under delegated authority, if it is a decision which may incur significant expenditure, make significant savings, or may affect a significant proportion of Norfolk's residents, and in such a case the decision shall be made by the Cabinet.

### **3.7. Budget Monitoring and Control**

- 3.7.1. The Executive Director of Finance and Commercial Services is responsible for monitoring income and expenditure against approved revenue and capital budget allocations and for reporting to Executive on the overall position monthly.
- 3.7.2. The Executive Director of Finance and Commercial Services is responsible for monitoring the prudential indicators and reporting to Executive on the overall position monthly.
- 3.7.3. The Executive Director of Finance and Commercial Services is responsible for monitoring the cash flow of the County Council and ensuring this is used to inform borrowing and investment decisions.
- 3.7.4. It is the responsibility of Executive Directors to control income and expenditure within their area in accordance with the approved budget and to monitor performance, taking account of financial information provided by the Executive Director of Finance and Commercial Services. Executive Directors are responsible for alerting the Executive Director of Finance and Commercial Services and the relevant Cabinet Member(s) or the Leader, to any overspendings or shortfalls in income and for identifying strategies and options for containing spend within the budget approved by the Council. If the overspending or shortfall in income cannot be accommodated within the service's budget this shall be reported to Cabinet.
- 3.7.5. Any policy proposal, which would have the effect of increasing a Service Department's budget, must be supported by a funding proposal setting out how it can be accommodated within the Service Department's existing budget. Such proposals must be made available to the Executive Director of Finance and Commercial Services at least five working days before the meeting at which they are to be proposed and must be finalised two working days before the meeting in order that the Executive Director of Finance and Commercial Services can report on the robustness of any proposed budget amendments. In the event that the proposal falls outside the scope of the Policy

<sup>2</sup> For the avoidance of doubt, although referred to Full Council, the ultimate decision will be in the hands of the executive unless the decision falls outside of the budget and policy framework

Framework as set out in Part 4 of the Constitution, it must be referred to Full Council for consideration.

- 3.7.6. Any variation or variations to a contract which in aggregate result in additional costs exceeding 5% of the original contract value or £50,000 (whichever is the greater) shall be subject to the prior approval of the Director of Procurement.

### **3.8. Virement**

- 3.8.1. Virement is the process of transferring the budget expenditure or income, whether revenue or capital, from one approved budget head to another. The County Council is responsible for agreeing the overall procedures for the virement of budget and the approval of virements between Departments. Executive Directors are responsible for agreeing in-year virements within delegated limits, in consultation with the Executive Director of Finance and Commercial Services where required. (The current approved procedures are shown in Annex A).
- 3.8.2. Schools are free to vire between budget heads in the expenditure of their budget shares, but Governors are advised to establish criteria for virements and financial limits above which the approval of the Governors is required.

### **3.9. Treatment of Year-End Balances**

- 3.9.1. Any under and overspendings by Service Departments are required to be reported to Cabinet as part of year-end reporting. Cabinet is responsible for reporting the overall under and overspendings to County Council and making recommendations as to how they are utilised or managed.
- 3.9.2. The Executive Director of Finance and Commercial Services is responsible for putting in place controls to ensure that carry-forward of revenue budget, revenue reserves and revenue grants above agreed limits are documented and reported to all Executive Directors and totals agreed by Cabinet.
- 3.9.3. The Executive Director of Finance and Commercial Services is responsible for putting in place controls to ensure that carry-forward of capital budget, capital reserves and capital grants above agreed limits are documented and reported to all Executive Directors and totals agreed by Cabinet. Any slippage on the capital programme will be carried forward to the next financial year and reported to Cabinet.

### **3.10. Maintenance of Reserves**

- 3.10.1 It is the responsibility of the Executive Director of Finance and Commercial Services to review the County Council's financial risks and planning assumptions and advise the Cabinet and the County Council on prudent levels of reserves and of general balances as part of setting the budget. This advice needs to take account of relevant accounting standards and professional best practice as part of the Council's budget planning process and regular budget monitoring.
- 3.10.2 The annual revenue budget sets out details of the purpose for which earmarked reserves are held and high-level forecasts for the use of such reserves. The timing of the use of reserves may however be uncertain and the annual budget setting process therefore provides the framework in which the use of reserves is agreed. In agreeing the annual revenue budget, the County Council is approving the use of reserves for the



purposes for which they have been earmarked, and it is recognised that the timing of this use will be dependent on operational requirements and other factors.

- 3.10.3 Where it is proposed that reserves are to be used for a purpose other than that for which they have been earmarked, this will be subject to approval by Cabinet in-year, based on the advice of the Executive Director of Finance and Commercial Services, with reference to a recommendation from the relevant Executive Director as appropriate in respect of service reserves. There is a general presumption that Cabinet will normally approve recommendations for the use of earmarked reserves which are made by Executive Directors, except where there are wider implications for financial control across the County Council, or delivery of the Council's budget plans. If the Executive Director of Finance and Commercial Services advises that a decision about the use of reserves may have broader implications, Cabinet will recommend a course of action but refer the matter to be decided by the County Council.
- 3.10.4 Cabinet is responsible for approving the creation of a balance sheet reserve (of any value), on the advice of the Executive Director of Finance and Commercial Services). The reserve will be reported to Full Council as part of the annual budget setting process and within reports from Cabinet to Full Council.

## **4 Governance, Risk Management and Internal Control**

### **4.1 Governance**

- 4.1.1 The Audit Committee is primarily responsible for Governance, Risk Management and Internal Control throughout the County Council. Its Terms of Reference are reviewed annually and published as part of Appendix 2 of the Constitution. Any changes are approved by the County Council. The composition is politically balanced and is reviewed at each appointment to the Committee.
- 4.1.2 Other Member-led bodies that also have a role in governance and internal control include the County Council, the Corporate Select Committee in any review of the Constitution for approval by full Council and with respect to Members, the Standards Committee.

### **4.2 Internal Control and Internal Audit**

- 4.2.1 Internal control refers to the systems of management and other controls put in place to ensure that the County Council's objectives are achieved in a manner which promotes economic, efficient and effective use of resources and in a way, which ensures that the County Council's assets and interests are safeguarded.
- 4.2.2 The Executive Director of Finance and Commercial Services is responsible for advising on adequate and effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant best practice.
- 4.2.3 It is the responsibility of Executive Directors, having regard to advice from the Executive Director of Finance and Commercial Services, to establish sound arrangements for internal control including planning, appraising, authorising and controlling their operations to achieve continuous improvement, economy, efficiency and effectiveness and in order to achieve their targets.
- 4.2.4 The Accounts and Audit Regulations 2015 require the County Council to:

- undertake an adequate and effective internal audit;
- review the effectiveness of its internal audit, at least annually; and
- ensure the Audit Committee considers the findings of that review as part of its consideration of the system of internal control for the County Council.

4.2.5 The Leader of the Council and the Head of Paid Service are responsible for signing the Annual Governance Statement that should be produced following an annual review of systems of internal control. The Annual Governance Statement is published with the annual Statement of Accounts.

### **4.3 Risk Management**

4.3.1 The County Council through the Cabinet is responsible for approving the County Council's Risk Management Policy as part of the risk management framework, its implementation and ensuring that proper insurance exists where appropriate.

4.3.2 The Audit Committee is responsible for reviewing the effectiveness of the County Council's risk management arrangements. It will receive risk management reports at least four times a year and take appropriate action to ensure that corporate business risks are being actively and appropriately managed. Annually, it will report on risk management to the County Council.

4.3.3 The Executive Director of Finance and Commercial Services is responsible for informing the preparation of the County Council's Risk Management Policy as part of the risk management framework, for promoting it throughout the County Council and for advising the Cabinet on proper insurance cover where appropriate. The Executive Director of Finance and Commercial Services will also report on the Corporate Risk Register quarterly to the Cabinet, to each meeting of the Audit Committee, and ensure that Executive Directors report their departmental risk register to the Cabinet at least once per annum.

### **4.4 External Audit**

4.4.1 Public Sector Audit Appointments Limited (which replaced the Audit Commission with effect from 1 April 2015) is responsible for appointing external auditors to each local authority. The duties of the external auditor are governed by the Local Audit and Accountability Act 2014.

4.4.2 The County Council may, from time to time, be subject to audit, inspection, or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

4.4.3 External auditors have a responsibility to satisfy themselves that the County Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. This judgement is based on criteria specified by the National Audit Office. The Executive Director of Finance and Commercial Services, in conjunction with Executive Directors, must ensure that the organisation makes best use of resources and that taxpayers and / or service users receive value for money.

### **4.5 Anti-Fraud, Bribery and Corruption**

- 4.5.1 In managing its responsibilities, the County Council is determined to protect itself against fraud and corruption both from within the County Council and from outside. The County Council is committed to maintaining a strong anti-fraud and corruption culture through its Anti-Fraud and Corruption Policy. This is designed to:
- encourage prevention;
  - promote detection;
  - identify a clear pathway for investigation; and
  - fulfil the requirements of Section 17 of the Crime and Disorder Act 1998
- 4.5.2 The County Council expects Members and staff at all levels to lead by example in ensuring adherence to legal requirements, rules, procedures and practices and internal controls including internal checks.
- 4.5.3 Executive Directors are responsible for ensuring that internal controls are such that fraud, bribery or corruption will be prevented, where possible, and the measures in the Anti-Fraud, Bribery and Corruption Policy are promoted.
- 4.5.4 Under the Anti-Fraud, Bribery and Corruption Policy, an Executive Director is required to immediately inform the Executive Director of Finance and Commercial Services of any financial irregularity or suspected financial irregularity.
- 4.5.5 The County Council expects that all who have dealings with it have a similar anti-fraud, bribery and corruption ethos and that they have no intent or actions with respect to fraud, bribery and corruption. (The County Council has issued guidance in “How to do business with Norfolk County Council” including whistleblowing, to support this).
- 4.6 Money Laundering and Proceeds of Crime**
- 4.6.1 The County Council has adopted an anti-money laundering policy and procedures intended to prevent the use of proceeds from crime. This policy has been developed with regard to the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007.
- 4.6.2 The County Council has nominated the Director of Governance to perform the role of Money Laundering Reporting Officer (MLRO) whose principal role is to receive, consider and respond to any reports received of known or suspected money laundering.
- 4.6.3 Executive Directors are responsible for ensuring that:
- all staff most likely to be exposed to, or suspicious of, money laundering situations are made aware of the requirements and obligations placed on the County Council and themselves by legislation;
  - those staff considered most likely to encounter money laundering are given appropriate training (nplaw can provide relevant in-house training);
  - departmental procedures are established to help forestall and prevent money laundering, including making arrangements for reporting concerns about money laundering to the MLRO; and
  - periodic and regular assessments are undertaken of the risks of money laundering that may exist in their Departments.

## **4.7 Treasury Management**

- 4.7.1 The County Council has adopted the CIPFA Code of Practice for Treasury Management in the Public Services and complies with the CIPFA Prudential Code when carrying out borrowing and investment activities under Part 1 of the Local Government Act 2003.
- 4.7.2 The County Council is responsible for the setting and revising of prudential indicators and for the approval of the Annual Investment and Treasury Strategy.
- 4.7.3 The County Council has delegated responsibility to the Executive Director of Finance and Commercial Services for the execution and administration of treasury management decisions, including decisions on borrowing, investment, financing (including leasing) and maintenance of the counter party list. The counter party list contains details of those banks, building societies and other bodies that meet the County Council's criteria for investment. The Executive Director of Finance and Commercial Services has delegated authority to effect movement between the separately agreed limits for borrowing and other long-term liabilities reflected in the Prudential Code's operational and authorised limits. The Executive Director of Finance and Commercial Services is required to act in accordance with the County Council's Treasury Management Policy Statement and Treasury Management Practices and CIPFA's Standards of Professional Practice on Treasury Management in accordance with external advice.
- 4.7.4 The Executive Director of Finance and Commercial Services will prepare for County Council an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close. In addition, the Executive Director of Finance and Commercial Services will regularly report to the Treasury Management Panel and the Cabinet on treasury management policies, practices, activities and performance monitoring information.
- 4.7.5 The Executive Director of Finance and Commercial Services is responsible for:
- monitoring performance against prudential indicators, including reporting significant deviations to the Cabinet and County Council as appropriate.
  - ensuring all borrowing and investment decisions, both long and short term, are based on cash flow monitoring and projections.
  - ensuring that any leasing financing decisions are based on full options appraisal and represent best value for the County Council, in accordance with the County Council's leasing guidance.
  - the provision and management of all banking services and facilities to the County Council.

## **4.8 Norfolk Pension Fund**

- 4.8.1 The Local Government Pension Scheme (LGPS) is a national pension scheme, administered locally with its own regulator (the Department for Levelling Up, Housing and Communities (DLUHC)).
- 4.8.2 The County Council is the Administering Authority of the Norfolk Pension Fund and administers the LGPS on behalf of all the participating employers and scheme members. Norfolk County Council is also an employer within the scheme.
- 4.8.3 Norfolk County Council delegates all its responsibilities as Administrator of the scheme to the Pensions Committee who act as quasi-trustee of the Fund.

- 4.8.4 All Pension Fund assets are separate from the County Council, and all costs and income are accounted for separately. The Fund has a separate bank account.
- 4.8.5 The Pensions Committee is responsible for all aspects of the administration of the scheme. This includes responsibility for deciding upon the best way in which the Pension Fund is to be invested with appropriate regard to its fiduciary responsibilities.
- 4.8.6 Advice is received as required from professional advisers. The Pensions Committee formally reviews the performance of investments and the overall strategy on a regular basis. The Fund is invested in compliance with the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016. The 2016 Regulations introduced the requirement for LGPS funds to pool investment assets from the 1st April 2018.
- 4.8.7 In order to facilitate the pooling of assets, the Norfolk Pension Fund has entered into an Inter-Authority Agreement with 10 other Administering Authorities, collectively known as the ACCESS (A Collaboration of Central, Eastern & Southern Shires) Pool. The ACCESS Funds are Cambridge, East Sussex, Essex, Hampshire, Hertfordshire, Isle of Wight, Kent, Norfolk, Northamptonshire, Suffolk and West Sussex.
- 4.8.8 The Pensions Committee is also responsible for the appointment and monitoring of Investment Managers, Custodian and other related service providers to the Fund.
- 4.8.9 The Executive Director of Finance and Commercial Services is responsible for the administration and financial accounting of the Norfolk Pension Fund. The Executive Director of Finance and Commercial Services is responsible for the preparation of the Pension Fund statutory accounts and annual report. The County Council delegates responsibility for the approval of the annual Pension Fund statutory accounts to the Audit Committee.
- 4.8.10 The Norfolk Pension Fund has adopted an Investment Strategy Statement in relation to the investment of the assets. This Statement includes details of compliance with recognised good investment practices. It is the Pensions Committee's responsibility to monitor the Fund's position in relation to the Investment Strategy Statement.
- 4.8.11 The Pension Fund maintains a Funding Strategy Statement, which sets out the Fund's approach to funding liabilities, based on principles agreed by the Pensions Committee. The Pension Fund is committed to providing clear, relevant, accessible and timely information to all stakeholders and to this end publishes and maintains a Customer Care and Communication Strategy Statement and a Governance Statement.
- 4.8.12 The Executive Director of Finance and Commercial Services ensures compliance with relevant regulatory and legislative guidelines and for keeping records of all scheme members, calculation and payment of benefits, transfers between schemes and the collection of contributions from participating employers.
- 4.8.13 In line with all public service pension schemes, LGPS Funds are required to have a local Pensions Board. The Board helps ensure that the Fund is managed and administered effectively and efficiently and complies with the Code of Practice on Governance and Administration of Public Service Pension Schemes issued by the Pensions Regulator. In Norfolk the local pension board is known as the Pensions Oversight Board and is made up of scheme member and scheme employer representatives with an independent chair.

## **5 Assets, Systems, Processes and Records**

### **5.1 Introduction**

- 5.1.1 Robust systems and procedures are essential to an effective framework of accountability and control.

### **5.2 Data Management**

- 5.2.1 Cabinet is responsible for ensuring that policies and procedures are in place to enable management of data to support effective decision-making.
- 5.2.2 It is the responsibility of the Executive Directors to ensure data management policies are understood and used effectively within their services.

### **5.3 Financial Processes and General Data Protection Regulations**

- 5.3.1 The Executive Director of Finance and Commercial Services is responsible for the determination and operation of the County Council's accounting processes, for the form of accounts and for the supporting financial records. The Executive Director of Finance and Commercial Services must approve any changes made by Executive Directors to the financial processes or the establishment of new processes, including IT systems.
- 5.3.2 Executive Directors must ensure that any processing (computerised or manual) that involves personal information is registered in accordance with the DPA (Data Protection Act) 2018 and UK GDPR (General Data Protection Regulation) and that all staff are aware of their responsibilities and any advice from the Information Commissioner.
- 5.3.3 Executive Directors must ensure that all staff are aware of their responsibilities under Freedom of Information legislation, and that procedures are in place to ensure compliance.
- 5.3.4 Executive Directors must ensure that all staff are aware of their responsibilities under the Code of recommended practice for local authorities on data transparency. These include:
- The requirement to maintain an inventory of data sets.
  - The general requirement that, where data is published, it should be in a non-proprietary format and published in a timely fashion.
  - The requirement to publish certain, specified data sets.
- 5.3.5 To ensure that open data which is published corporately is accurate and complete, Executive Directors must ensure that:
- All contracts over £50,000 are registered on the corporate contracts register maintained by the procurement team.
  - All goods and services are ordered via one of the council's electronic ordering systems (for general purposes, Oracle iProcurement).
  - All goods and services are ordered in advance and purchase order descriptions are accurate and complete.
  - All changes of structure are notified to HR.

## **5.4 Schemes of Authorisation and Financial Responsibility**

- 5.4.1 It is the responsibility of Executive Directors to ensure that the scheme of authorisation and financial responsibility is implemented using Budget Manager and is operating effectively. The scheme of authorisation and financial responsibility identifies staff authorised to act on the Executive Director's behalf, or on behalf of the County Council, in respect of payments, income collection and procurement (including ordering). Procurement authorisations shall be made in accordance with the requirements of Contract Standing Orders. For clarity, staff identified to act in this way will be required to formally accept their responsibilities under the scheme of authorisation and financial responsibility.

## **5.5 Income Collection**

- 5.5.1 The Executive Director of Finance and Commercial Services is responsible for the provision and management of all income collection arrangements for the County Council.
- 5.5.2 Cabinet is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control. The Debt Recovery Policy and Framework forms part of the Financial Procedures and is required to be followed by all parties involved in the recovery of monies owed to the Council.

## **5.6 Payments to Employees, Third Parties and Members**

- 5.6.1 Except for schools, the Executive Director of Finance and Commercial Services is responsible for all payments of salaries and wages to all staff, including payments for overtime, goods and services provided, and for the payment of allowances to elected Members. Schools have delegated responsibility under the Local Management of Schools (LMS) scheme.

## **5.7 Taxation**

- 5.7.1 The Executive Director of Finance and Commercial Services is responsible for advising Executive Directors, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues, including VAT, that affect the County Council. Executive Directors are responsible for ensuring that such advice is complied with within their services.
- 5.7.2 The Executive Director of Finance and Commercial Services is responsible for maintaining the County Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.
- 5.7.3 The Executive Director of Finance and Commercial Services will ensure that VAT incurred in relation to "exempt" business income is not at risk of exceeding the partial exemption limit in any financial year and undertake the annual calculation after year-end.

## **5.8 Trading Accounts**

- 5.8.1 Cabinet must approve the establishment of all Trading Accounts. Trading Accounts are required for all services that provide goods or services to a third party on a traded basis or where the organisation has identified that a service should operate as a separate trading unit.

5.8.2 The Executive Director of Finance and Commercial Services is responsible for the form of the trading accounts included in the Trading Framework document. Executive Directors are responsible for reporting on the activities of any trading organisation within their respective areas of service, taking account of current accounting standards and best practice in reporting.

## **5.9 Monitoring Reporting**

5.9.1 Executive Directors are responsible for ensuring that monthly budget monitoring reports for both revenue and capital expenditure and income are produced for their respective areas of service. The Executive Director of Finance and Commercial Services is responsible for regularly reporting the details (including compliance with the Prudential Code) to Cabinet.

5.9.2 Any variation, or variations, to a contract which in aggregate result in additional costs exceeding 5% of the original contract value or £50,000 (whichever is the greater) shall be subject to the prior approval of the Director of Procurement.

## **5.10 Companies, Trusts and Charities**

5.10.1 Cabinet is responsible for:

- approving the establishment and viability (including the business case) of all new companies, trusts and charities;
- approving investments in other companies, trusts and charities, in which the County Council has a financial interest except where the investment is within criteria Cabinet has previously delegated to an Executive Director;
- taking decisions as shareholder and sole trustee where appropriate;
- monitoring and receiving reports on the County Council's companies;
- dissolution of County Council's companies, trusts, and charities.

5.10.2 Executive Directors are responsible for informing the Director of Governance and Executive Director of Finance and Commercial Services of any new proposals, to ensure that legal and financial considerations are properly considered before any arrangements with an outside body or creation of a new company, trust or charity are considered.

5.10.3 Executive Directors are also responsible for ensuring tight controls are in place for the financial management of loan and guarantor arrangements with Norfolk County Council owned companies. This includes ensuring the Executive Director of Finance and Commercial Services is presented with robust business cases and signed loan agreements.

5.10.4 The Executive Director of Finance and Commercial Services is responsible for reviewing the ongoing viability of such entities and regularly reporting the performance of their activities, with a view to ensuring that the County Council's interests are being protected.

5.10.5 All relevant companies must have their accounts incorporated and consolidated within the County Council's financial accounts in accordance with proper accounting standards and best financial practice. The Executive Director of Finance and Commercial Services



is responsible for ensuring the proper financial accounting treatment and compliance with current legislation.

- 5.10.6 The appointment and removal of directors to companies, trusts and charities in which the County Council has an interest must be made by Cabinet, having regard to the advice of the Executive Director of Finance and Commercial Services. The directors will then have a statutory duty to the company, trust or charity and must therefore act in accordance with the Companies and / or Charities Act where applicable.
- 5.10.7 The Executive Director of Finance and Commercial Services and Director of Governance should be contacted for assistance at an early stage to discuss the proposals.

## **5.11 Early payments and loans to suppliers and service providers**

### **5.11.1 Early Payments**

In the normal course of business, the County Council may on occasion make early payments (ahead of contractual payment terms). These are agreed on a case by case basis, entirely at the discretion of the County Council, and (where appropriate) taking into account the overall value of the contract and the implications of any failure of service provision. Any decision to vary a contract by amending the payment terms shall be taken in accordance with Regulation 72 of the Public Contracts Regulations 2015. The Council has a protocol in place which governs the amendment of payment terms for existing contracts. This protocol covers both permanent, ongoing arrangements and one-off requests for early payment. The Council's Contract Standing Orders set out the general principle that advance payment terms should not be offered during procurement activities other than in exceptional circumstances. In all cases, care must be taken to ensure the Council is not committed to making infeasibly fast payments. There are broadly three scenarios which may arise:

#### **5.11.2 Payment ahead of terms**

Where suppliers or service providers experiencing cash flow difficulties or other financial hardship seek payment ahead of terms but not in advance of the supply of goods or services, the contract manager, in conjunction with the relevant Finance Business Partner, may agree to payment ahead of terms provided that an appropriate discount is secured. For the avoidance of doubt, at the discretion of the Council, a discount may be set at zero (i.e., payment made ahead of terms with no discount required).

Where suppliers or service providers which are not in financial difficulties seek payment ahead of terms but not in advance of the supply of goods or services, the Director of Procurement, in conjunction with the relevant Finance Business Partner, may agree to payment ahead of terms provided that an appropriate discount is secured. For the avoidance of doubt, at the discretion of the Council, a discount may be set at zero (i.e. payment made ahead of terms with no discount required).

#### **5.11.3 Payment in advance of goods or services being supplied**

Due to the credit risk involved, only the Executive Director of Finance and Commercial Services, Director of Financial Management or Assistant Director of Finance (FES) may agree to vary a contract to allow for payment in advance of goods or services being delivered, subject to an appropriate discount being secured, and taking into account subsidy considerations. For the avoidance of doubt, at the discretion of the Council, a

discount may be set at zero (i.e. payment made ahead of terms with no discount required), but only with the approval of the Executive Director of Finance and Commercial Services.

5.11.4 **Loans** may be made in exceptional circumstances outside of contractual agreements or where no contract or payment relationship exists. This has the potential to arise (for example) in the context of a third-party organisation experiencing financial difficulty, where the failure of the third party would significantly impact upon services the Council provides or is responsible for. Loans will be considered on a case by case basis, entirely at the discretion of the County Council, and taking into account the overall level of the loan and the implications of any failure of service provision. Loans in this context would be intended generally for short term cash flow purposes and to ensure the continuity of a service, or to avoid additional costs arising from any provider failure, although it is recognised that other circumstances necessitating a loan may also arise and this list is not comprehensive.

5.11.5 The Executive Director of Finance and Commercial Services has discretion to consider making a short-term loan in the above circumstances, whilst also considering:

- the ability of the loan recipient to repay and the provision of a robust plan to demonstrate how the situation which gave rise to the need for a loan will be resolved (it is also likely that a Financial Assessment of the recipient will be required);
- any potential subsidy issues, particularly in respect of determining an appropriate interest rate for the loan, which should be set with reference to the [published margin tables](#); and
- the duration and value of the loan sought.

5.11.6 Loans will be requested through the relevant Finance Business Partner for the service area, in consultation with the Executive Director for the service. Loans will not be made until they have been approved by the Executive Director of Finance and Commercial Services, or the Director of Financial Management, following consultation with the Leader and / or Deputy Leader in the case of a loan over £50,000 and / or for a loan period in excess of six months.

5.11.7 Loans may be repaid either by instalment or as a lump-sum. The terms of the loan, including arrangements for repayment, must be agreed and a loan agreement signed by both parties before any loan can be made. The service area initiating the loan will be required to identify a cost centre which will bear the cost of the loan in the event of a failure by the loan recipient to make repayments as agreed. The Executive Director for the service should consider the need to make the relevant Cabinet Member(s), Leader and / or Deputy Leader aware of this potential cost to the service budget.

5.11.8 Any loan arrangements not specifically covered above, including mid to longer term loans made for other purposes, will be subject to approval by the Executive Director of Finance and Commercial Services, or the Director of Financial Management, following consultation with the Leader and / or Deputy Leader. Any loans made in this way will be reported to Cabinet.

## **5.12 Contract Standing Orders**

5.12.1 Executive Directors are responsible for ensuring that the procurement of all goods, works and services is undertaken in accordance with the Council's Contract Standing Orders.

- 5.12.2 Contract Standing Orders form part of the County Council's Constitution and are the rules that govern how procurement will be undertaken by the Council, and what processes must be followed.
- 5.12.3 Any award with a value exceeding £30,000 entered into on behalf of the Council must be evidenced by way of a contract. Such contracts must either be signed by at least two authorised officers of the Council or made under the common seal of the Council attested by at least one authorised officer.

### **5.13 Assets**

- 5.13.1 Executive Directors should ensure that records of assets are properly maintained and securely held (in practice property asset records are kept by the Corporate Property Team on behalf of Executive Directors). Executive Directors should also ensure that contingency plans are in place for the security of assets and continuity of service in the event of disaster or system failure.
- 5.13.2 In making disposals officers will have due regard to the provisions of the Local Government Act 1972 (section 123) concerning best consideration, subject to the discretion afforded to authorities by the General Disposal Consent (England) 2003 (see DCLG Circular 06/2003). All decisions to dispose at less than best consideration will be referred to Cabinet for determination.
- 5.13.3 Disposal must be made by competitive process unless the Executive Director of Finance and Commercial Services authorises otherwise. The appointment of agents to handle disposals is subject to the normal provisions of Council Standing Orders.
- 5.13.4 All property disposals (including lease surrenders/assignments), acquisitions and other property transactions (such as granting / taking licences, granting of easements and wayleaves to statutory undertakers etc., granting tenancies at will) are to be made only by the Council's Corporate Property Officer (Director of Property). In reaching decisions on the disposal of land and property, the County Council should give due consideration to the advice of the Corporate Property Officer (Director of Property). The Council's named and designated Corporate Property Officer (Director of Property) may, in accordance with arrangements approved by the Executive Director of Finance and Commercial Services, dispose of property assets, acquire property assets and approve of property transactions as set out in the tables at 5.13.6 and 5.13.7 below. Proposals for disposals, acquisitions and other property transactions must involve the Local Member as set out within the Local Member Protocol in the Constitution (Annex to Appendix 5 of the Constitution).
- 5.13.5 Land and buildings declared surplus by a service will be reviewed by the Corporate Property Strategy Group and where there is no alternative beneficial use such property will be reported to Cabinet to confirm its status as a surplus asset to be disposed of and/or exploited for income purposes.

#### **5.13.6 Disposals**

The disposal of surplus assets will be undertaken as follows:

Property Disposal

<b>Disposal value* £m</b>	<b>Responsibility and authorisation</b>
Over £1.250m (unless covered by a specific item in the budget)	Cabinet
Over £0.250m and up to and including £1.250m	Cabinet Member for Commercial Services and Asset Management
Over £0.050m and up to and including £0.250m	Corporate Property Officer (Director of Property) in consultation with the Executive Director of Finance and Commercial Services
Up to and including £0.050m	Corporate Property Officer (Director of Property)
All disposals at less than best consideration (irrespective of value)	Cabinet

#### Other Asset Disposal

<b>Disposal value* £m</b>	<b>Responsibility and authorisation</b>
Over £0.500m	Cabinet
£0.250m and up to and including £0.500m	Executive Director in consultation with Executive Director of Finance and Commercial Services
Up to but not including £0.250m	Executive Director
All disposals at less than best consideration (irrespective of value)	Cabinet

#### Leases – leases out

<b>Disposal value* £m</b>	<b>Responsibility and authorisation</b>
All leases out or lease out renewals where the total value (annual rent multiplied by lease term) is more than £1.250m, or the term is over 20 years	Cabinet
All leases out or lease out renewals where the total value (annual rent multiplied by lease term) is over £0.250m and up to and including £1.250m, and the term is for 20 years or less	Cabinet Member for Commercial Services and Asset Management
All leases out or lease out renewals where the total value (annual rent multiplied by lease term) is up to and including £0.250m and the term is for 20 years or less	Corporate Property Officer (Director of Property)

## Farm Business Tenancies

Disposal value* £m	Responsibility and authorisation
Farm business tenancies or renewals where the total value (annual rent multiplied by tenancy term) is more than £1.250m, or the term is over 20 years	Cabinet
Farm business tenancies or renewals where the total value (annual rent multiplied by tenancy term) is over £0.250m and up to and including £1.250m, and the term is for 20 years or less	Cabinet Member for Commercial Services and Asset Management
Farm business tenancies or renewals where the total value (annual rent multiplied by tenancy term) is up to and including £0.250m, and the term is for 20 years or less	Corporate Property Officer (Director of Property)

## Other Property Transactions

Disposal value* £m	Responsibility and authorisation
Granting of all: i. Licences ii. Leases, easements and wayleaves to statutory undertakers iii. Granting of easements and wayleaves iv. Tenancies at will v. Lettings in accordance with the Mobile Home Act 1983	Corporate Property Officer (Director of Property)

\*Disposal value in these tables refers to the valuation of the asset, irrespective of the consideration to be received.

### 5.13.7 Acquisitions

Acquisitions of assets will be undertaken as follows:

#### Property Acquisitions

Acquisition value £m	Responsibility and authorisation
Over £1.250m	Cabinet
Over £0.250m and up to and including £1.250m	Cabinet Member for Commercial Services and Asset Management
Over £0.050m and up to and including £0.250m	Corporate Property Officer (Director of Property) in consultation with the Executive Director of Finance and Commercial Services
Up to and including £0.050m	Corporate Property Officer (Director of Property)

#### Other Asset Acquisitions

Acquisition value £m	Responsibility and authorisation
Over £0.250m	Cabinet
Up to and including £0.250m	Executive Director

#### Leases – lease acquisitions

Acquisition value £m	Responsibility and authorisation
Lease acquisitions and renewals where the proposed total rental value (annual rent multiplied by lease term) is above £1.250m, or the term is over 20 years	Cabinet
Lease acquisitions and renewals where the proposed total rental value (annual rent multiplied by lease term) is over £0.250m and up to and including £1.250m, and the term is for 20 years or less	Cabinet Member for Commercial Services and Asset Management
Lease acquisitions and renewals where the proposed total rental value (annual rent multiplied by lease term) is up to and including £0.250m, and the term is for 20 years or less	Corporate Property Officer (Director of Property)

#### Other Property Transactions

Acquisition value £m	Responsibility and authorisation
Acquisition of all: i. Licences ii. Leases, easements and wayleaves from statutory undertakers iii. Easements and wayleaves from other third parties. iv. Tenancies at Will	Corporate Property Officer (Director of Property)

5.13.8 The following activities are business as usual and will be approved by the Director of Property:

Where NCC acts as landlord or where NCC acts as tenant:

- Determination (ending of), surrender, assignment or forfeiture of leases, licences and other property rights.
- Agreeing dilapidations.
- Landlord consents (granting and requesting).
- Rent reviews.
- Agreeing sub leases.
- Minor alterations to lease in/lease out agreements to ensure the agreement is completed.

For freehold property disposed of or acquired:

- Agreeing overage and claw back provisions.
- Minor alterations to disposal or acquisition agreements to ensure the agreement is completed.

5.13.9 The government has consulted on regulations (the proposed Local Authorities (Functions and Responsibilities) (England) Regulations 2015) which would require any decision to dispose of land and buildings with a value above £500,000 to be agreed by the Full Council. The regulations above show the responsibility is with Cabinet / the Cabinet Member for Commercial Services and Asset Management pending the outcome of the consultation. As at October 2020 these have not yet been enacted. If enacted, the following thresholds would apply:

Disposal value	Responsibility and authorisation for land and buildings
Up to and including £0.050m	Corporate Property Officer (Director of Property)
Over £0.050m and up to and including 0.250m	Corporate Property Officer (Director of Property) in consultation with the Executive Director of Finance and Commercial Services
Over £0.250m and up to and including £0.500m	Cabinet Member for Commercial Services and Asset Management
Over £0.500m and all disposals at less than best consideration (irrespective of value)	Full Council

5.13.10 The County Council has an aspiration to at least maintain the size of its current County Farms estate, under the County Farms policy agreed by the County Council in October 2014. To that end any capital receipts from the sale of County Farm land will be treated in the following way:

For all County Farms land that is sold:

- If it is sold as **agricultural land**, 100% of the capital receipt will be hypothecated towards further acquisitions of County Farm land / capital improvements to the County Farm estate that produce a revenue uplift.
- If it is sold as **residential/development** land:
  - A valuation will be undertaken to establish the value of the land, should it have been sold without planning permission. That value will then be hypothecated towards further County Farm acquisitions / capital improvements to the County Farm estate that produce a revenue uplift.
  - The balance of the sale value will be split:
    - 65% towards general capital receipts to be utilised by the Council for any purpose.
    - 35% will be put into a reserve for the use of County Farms for further acquisitions / capital improvements to the County Farm estate that produce a revenue uplift.
    - If this reserve reaches £3m in value, then any additional receipts will be made available for general Council use for any purpose

## 5.14 Making Grants

5.14.1 Executive Directors are authorised by the Scheme of Delegated Powers to Officers to make grants (subject to any specific grant thresholds set out in the limitations on officers delegated powers within the Constitution). Executive Directors are responsible for ensuring that:

- adequate records are kept for the required period;
- controls are in place to ensure any grant conditions will be met, with provision to recover / claw back unused grant as appropriate;
- grant payments made by their department do not constitute a breach of subsidy rules; and
- any requirements to notify Members under the Local Member Protocol are complied with.



- 5.14.2 When making grant decisions or awards, Norfolk County Council must reserve the right to refuse (or recover) funding awarded by the authority if it is found that the recipient, or anyone connected to the use of the funding provided, is an active participant in support of extremist views / activity that is contra to the Authority's duty of due regard in relation to the Prevent Duty 2011.

## **5.15 Retention of Financial Records**

- 5.15.1 The County Council has a specific policy in place on the minimum retention periods for financial records and these periods are set out in the corporate records retention and disposal scheme. Executive Directors should ensure records are maintained and held securely for the correct period, after which they should be disposed of in accordance with the procedures.

## **6 External Arrangements**

### **6.1 Introduction**

- 6.1.1 Where the County Council operates in a devolved environment or through a partnership or other arrangements, the Executive Director of Finance and Commercial Services must ensure that the roles and responsibilities for each of the activities and tasks in maintaining financial administration and stewardship are clearly defined, allocated and operated effectively.

### **6.2 Partnerships**

- 6.2.1 The County Council has formal representation on many external boards.
- 6.2.2 Separate governance arrangements will exist for external boards / partnerships / joint ventures and decisions taken by Council Members at these boards that affect Norfolk County Council will still be subject to the Norfolk County Council Constitution.
- 6.2.3 The Executive Director of Finance and Commercial Services must ensure that the accounting and reporting arrangements to be adopted relating to partnerships and joint ventures, as defined within Financial Procedures, are satisfactory. The Executive Director of Finance and Commercial Services and Director of Governance must consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. They must also ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- 6.2.4 Executive Directors are responsible, in consultation with the Executive Director of Finance and Commercial Services and Director of Governance, for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies. They should also ensure that the risks identified above are mitigated where possible.

### **6.3 External Funding**

- 6.3.1 The Executive Director of Finance and Commercial Services is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the County Council's accounts. Executive Directors are responsible for ensuring that the Executive Director of Finance and Commercial Services is notified of external funding bids at an early stage. If there are conditions associated with funding, Executive

Directors are responsible for ensuring that adequate records are kept for the required period and controls are in place to ensure that any grant conditions will be met, with provision in place to repay any amounts deemed non-compliant with the conditions.

- 6.3.2 The receipt of grants and acceptance of other external funding, outside of the annual budget setting process, should be undertaken in line with the approvals set out in the scheme of virement in Annex A. This reflects the fact that this type of income may have clawback provisions that could have a budgetary impact, and there should be transparency about the source of funding for any increase in spending within a service.

## **6.4 Financial Guarantees**

- 6.4.1 Executive Directors must inform the Executive Director of Finance and Commercial Services of all proposals that may require a financial guarantee prior to implementation.
- 6.4.2 The Executive Director of Finance and Commercial Services is responsible for ensuring that any proposed financial guarantee requirement is within the powers of the County Council and shall consult with the Director of Governance as appropriate. As a matter of principle, the County Council seeks to avoid providing financial guarantees. Any guarantees that are provided will be reported to Cabinet in financial monitoring reports.
- 6.4.3 Requirements for suppliers to provide the County Council with either bonds or guarantees shall be agreed with the Corporate Property Officer (Director of Property) (for property contracts) or the Director of Procurement (for other contracts)

## **6.5 Work for Third Parties**

- 6.5.1 Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies, not already covered by the Scheme of Authorisation to Executive Directors.

## **6.6 Subsidy and Competition**

- 6.6.1 Executive Directors are responsible for ensuring that any payments (or payments in kind) made by their department do not constitute a subsidy or breach rules on competition. Subsidy (which includes the provisions which pre-date the UK-EU Trade and Co-operation Agreement where a project began when the UK was a member of the EU or during the subsequent transition period) are measures which mean that a level playing field for open and fair competition and sustainable development cannot be ensured. Typical examples can include:
- Cheap loans
  - Grant funding
  - Sharing staff, equipment or accommodation (particularly with wholly owned companies)
  - Waiver of deductions due on contracts.
- 6.6.2 If an Executive Director is unsure as to whether a payment or payment in kind would constitute a subsidy or anti-competitive practice, the advice of the Executive Director of Finance and Commercial Services should be sought in consultation with the Director of Governance where appropriate.

## **6.7 Projects / Business Cases (including Private Finance 2 (PF2)<sup>3</sup>)**

- 6.7.1 Executive Directors considering projects or business cases should consult with the Executive Director of Finance and Commercial Services during the preparation of the business case for submission.
- 6.7.2 County Council / Cabinet are responsible for approving material projects / business cases at all key stages. The Executive Director is responsible for ensuring that such approvals are sought and obtained from County Council / Cabinet in a timely manner.
- 6.7.3 There will not be a maximum payback period for carbon reduction projects where the Executive Director of Finance and Commercial Services agrees that the net present value of the project is positive, after allowing a reasonable contingency for risk.
- 6.7.4 The Executive Director of Finance and Commercial Services is responsible for:
- ensuring that the project / business case has the necessary support from appropriately skilled financial and procurement specialists at all stages of its procurement, as well as during the operational stage
  - ensuring that the necessary banking arrangements are available in time for the project to commence
  - endorsing the outline business case, including underlying financial assumptions, value for money, and ability to deliver
  - ensuring that the financial implications of all projects are incorporated in financial planning.

Executive Directors are responsible for:

- preparing a business case for submission prior to commencing the procurement process
- ensuring that the project has the necessary support from appropriately skilled legal and procurement specialists at all stages of its procurement, as well as during the operational stage
- compliance with Contract Standing Orders
- ensuring that, at all stages, cost estimates for both the capital and revenue expenditure are carefully made and reviewed to ensure that they are robust before seeking formal approval from County Council / Cabinet
- ensuring that procedures are in place to limit, as far as reasonably possible, the likelihood of the County Council failing to pay the contractor on time, or otherwise defaulting or making an overpayment
- informing the Executive Director of Finance and Commercial Services of any matter that may lead to termination under the contract. Cabinet is required to approve termination of a contract by use of the Authority Default provisions
- fully considering the risks associated with undertaking a project and reporting them to Cabinet when they are considering the approval of a project
- ensuring that any dedicated bank accounts necessary to enable their projects to function efficiently are set up and properly operated. Any bank accounts opened in the

<sup>3</sup> Private Finance 2 (PF2) is the current model of Private Finance Initiative (PFI) for new Government projects. At the Autumn Budget 2018, the Government announced that it would no longer use PF2, although existing PFI and PF2 contracts were not affected by the announcement. In the event that PF2 or a successor scheme were to become an option in future, Executive Directors considering such projects should consult with the Executive Director of Finance and Commercial Services during the preparation of the business case for submission.

name of the County Council require the approval of the Executive Director of Finance and Commercial Services.

- 6.7.5 In relation to existing PFI and PF2 contracts, Executive Directors are responsible for ensuring that deductions required to the unitary payment for the unavailability of the contracted service or a performance shortfall are made in full in a timely manner. If another service or asset is proposed in exchange for foregoing such deductions, the Executive Director of Finance and Commercial Services is responsible for ensuring that the alternative proposal has a value equal to the foregone deductions.
- 6.7.6 Where the County Council has the right to make a deduction under the contract, any waiver of the deduction shall be treated as a write-off of debt and shall be covered by the Council's Debt Recovery procedure. When considering the thresholds for approval of the write off, all deductions due in a financial year should be aggregated together.
- 6.7.7 Private Finance transactions contain complex financial arrangements including (usually) a Funder's Direct Agreement that can obligate the County Council to take over the responsibility for the Contractor's debt in the event of Authority or Contractor default. It is the responsibility of the Executive Director to ensure that the Executive Director of Finance and Commercial Services has all the relevant information regarding these arrangements and of any material financial matters. It is the responsibility of the Executive Director of Finance and Commercial Services to account for the arrangements in accordance with the relevant regulations and proper accounting practice.

## **6.8 Social Impact Bonds (SIBs)**

- 6.8.1 Social Impact Bonds (SIBs) are a means of commissioning services where payment or funding for the service is conditional on the achievement of specified outcomes. Executive Directors considering such projects should consult with the Executive Director of Finance and Commercial Services during the preparation of the business case for submission to Cabinet.
- 6.8.2 Cabinet is responsible for approving SIB projects. The Executive Director is responsible for ensuring that such approvals are sought and obtained from Cabinet in a timely manner.
- 6.8.3 The Executive Director of Finance and Commercial Services is responsible for:
- ensuring that the project has the necessary support from appropriately skilled financial and procurement specialists at all stages of its procurement, as well as during the operational stage
  - endorsing the outline business case, including underlying financial assumptions, value for money, and ability to deliver
  - ensuring that the financial implications of all SIBs are incorporated in financial planning.
- 6.8.4 Executive Directors are responsible for:
- preparing a business case for submission to Cabinet at an appropriate point
  - ensuring that the project has the necessary support from appropriately skilled legal and procurement specialists at all stages of its procurement, as well as during the operational stage

- compliance with Contract Standing Orders
- ensuring that, at all stages, cost estimates are carefully made and reviewed to ensure that they are robust, that a sufficient budget is available to fund the anticipated level of outcome payments, and there are measures in place to limit the County Council's exposure to uncapped outcome payments
- ensuring that procedures are in place to limit, as far as reasonably possible, the likelihood of the County Council failing to pay the investor on time, or otherwise defaulting or making an overpayment

6.8.5 It is the responsibility of the Executive Director to ensure that the Executive Director of Finance and Commercial Services has all the relevant information regarding the arrangements for the SIB and of any material financial matters. It is the responsibility of the Executive Director of Finance and Commercial Services to account for the arrangements in accordance with the relevant regulations and proper accounting practice.

## Annex A

### Norfolk County Council's Scheme of Virement

#### Background

1. The scheme of virement is intended to enable Cabinet, Executive Directors and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the County Council, and therefore to optimise the use of resources.
2. The scheme is administered by the Executive Director of Finance and Commercial Services within guidelines set by the County Council. Any variation from this scheme requires the approval of the County Council.
3. The overall budget is approved by the County Council. Executive Directors and budget managers are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement; that is, switching resources between approved estimates or heads of expenditure – both revenue and capital. For the purposes of this scheme, a budget head is considered to be the subdivision of Departmental / service budgets as reported in the County Council Budget Book for the relevant year. Virement does not include the switching of resources between revenue and capital.
4. Virement does not create additional overall budget liability. Executive Directors are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Executive Directors must plan to fund such commitments from within their own budgets.
5. The capital and revenue budgets may contain block allocations of funding for specific purposes. The movement of resources from a block allocation to a specific identified scheme does not constitute a virement provided that the expenditure being incurred is in accordance with the original policy decision agreed by the County Council. If an Executive Director wishes to transfer funding from a block allocation and use it for a different purpose, for example, the transfer of purchase of care from one client group to a different client group, the rules below will apply.
6. The scheme also covers receipt of grants and acceptance of other external funding, outside of the annual budget setting process.

#### Revenue

7. County Council is responsible for agreeing virement **between** services (as shown in the budget report to County Council in February each year), and where the virement has a value in excess of £200,000.
8. Cabinet is responsible for agreeing virement **between** services where the virement has a value of up to £200,000, subject to the prior agreement of the virement by the service department(s) concerned.
9. County Council is also responsible for agreeing virements between budget heads defined in 3 above – **within** services, where the virement has a value in excess of 1% of the net budget of the service (as shown in the budget report to County Council in

February) or £100,000 – whichever is the higher. For Children's Services, net budget is calculated exclusive of amounts delegated to schools.

10. All other virements are the responsibility of Executive Directors, subject to consultation with the relevant Cabinet Portfolio Holder, Leader or Deputy Leader and the agreement of the Executive Director of Finance and Commercial Services.
11. Executive Directors may delegate authority to make virements to other officers, consistent with the above and in accordance with formally agreed departmental arrangements.

## **Capital**

12. County Council is responsible for agreeing virements between services and schemes (as shown in the Capital Budget document produced by the Executive Director of Finance and Commercial Services).
13. County Council is also responsible for agreeing virements greater than £250,000 within services or schemes (as defined above).
14. All other virements are the responsibility of Executive Directors, subject to consultation with the relevant Cabinet Portfolio Holder, Leader or Deputy Leader and the agreement of the Executive Director of Finance and Commercial Services and subject to the service's overall financial provision for capital spending not being exceeded in the current and future years.

## **Annex B**

### **Norfolk County Council process for the issue of a report under Section 114 of the Local Government Finance Act 1988**

#### **Background**

1. Section 114 of the Local Government Finance Act 1988 requires a report to all the authority's Members to be made by the Section 151 Officer (Executive Director of Finance and Commercial Services) in consultation with the Monitoring Officer (Director of Governance) if there is, or is likely to be, unlawful expenditure or an unbalanced budget. Similar provisions apply under s114A if the decision is an Executive decision. The Executive Director of Finance and Commercial Services takes a view of the robustness of the Council's budget across the whole period covered by the Medium-Term Financial Strategy. Making a report under section 114 is likely to have serious implications and this Annex therefore sets out the process and controls which will be adopted prior to such a report being made. It should be noted that the objective of these Financial Regulations and, more broadly, the Council's effective financial management and reporting procedures, is to minimize the prospect of the Executive Director of Finance and Commercial Services being required to make such a report, and such an eventuality is to be avoided if possible.
2. The Executive Director of Finance and Commercial Services has a duty to report to the authority if they believe:
  - that a decision involves, or would involve, unlawful expenditure (114 (2) (a));
  - a course of action is unlawful and is likely to cause a loss or deficiency (114 (2) (b));
  - an entry of account is unlawful (114 (2) (c)).
3. In such circumstances, the Executive Director of Finance and Commercial Services is required to make a report to the authority and send a copy to every Member and the external auditor. The Full Council (or in the case of a report under s114A, the Executive) must consider the report within 21 days and the action to which the report relates must not be pursued until this has taken place. Full Council (or the Executive in the case of a s114A report) must decide whether it agrees or disagrees with the report and determine the action it proposes to take.
4. The Executive Director of Finance and Commercial Services is also required to inform the authority in the event they believe that expenditure is likely to exceed available resources (114 (3)). The authority then may not enter into agreements incurring expenditure until the report has been considered by the full council.
5. Information leading to the preparation of a section 114 report might arise from a council officer (including a member of the Finance and Commercial Services department), a Member of the council, the public, or from the authority's auditors. Members and officers should note that it is the Executive Director of Finance and Commercial Services' duty to investigate possible issues which might lead to a formal report. The statutory duty to make a report rests with the Executive Director of Finance and Commercial Services.
6. A report made under section 114 (2) requires the Executive Director of Finance and Commercial Services to make a judgement that a decision or course of action is unlawful. Such a decision will only be made after consultation with the Director of Governance (Monitoring Officer). A report made under section 114 (3) relates to a



financial judgement which may be reached by the Executive Director of Finance and Commercial Services alone, although consultation with the Head of Paid Service and Director of Governance (Monitoring Officer) is still required in case other corporate and legal issues arise as a result of the report.

7. These Financial Regulations adopt the recommendations of the CIPFA Statement on the Role of the Chief Financial Officer in Local Government, where further information about the issuing of a section 114 report can be found.

## Section 114 Process

8. The process for the issuing of a report under section 114 (2) in relation to an unlawful decision or course of action (either retrospective or potential) is as follows:

1) <b>Executive Director of Finance and Commercial Services consults with Director of Governance</b> (Monitoring Officer) to determine whether an action or proposed action was or will be unlawful
2) <b>Consult with Head of Paid Service</b>
3) In the event of disagreement or doubt, Director of Governance to seek opinion of counsel
4) Following confirmation that an action would be unlawful; a prospective <b>action may be halted</b> at this stage through management action. In such an event, no further action or report would be required
5) In the case of an <b>event which has already occurred, or where it is not possible to stop</b> the course of action, the Executive Director of Finance and Commercial Services will <b>draft a report</b> under Part VIII of the Local Government Finance Act 1988
6) Report agreed with Head of Paid Service and Director of Governance (consultation with counsel if required)
7) Executive Director of Finance and Commercial Services <b>signs report</b> - sent to every member of the council and the external auditor as soon as practical. The report should normally be sent with the summons to the Full Council meeting (or Cabinet, if appropriate) which will consider it. Proof of sending should be retained
8) From the date of issue, a <b>prohibition period</b> begins (the action may not be progressed). Within 21 days the Full Council (or Cabinet, if appropriate) must meet to consider the report. The Head of Paid Service notifies the External Auditor of the date, time and place of the meeting
9) Full Council (or Cabinet, if appropriate) may <b>agree the report</b> and decide remedial action <b>or disagree the report</b> and take no action. The prohibition period ends the following day and the <b>Head of Paid Service notifies the External Auditor of the outcome</b>

9. The process for the issuing of a report under section 114 (3) in relation to an unbalanced budget position is as follows:

1. <b>Executive Director of Finance and Commercial Services</b> identifies that <b>Capital or Revenue expenditure exceeds likely resources</b> (either for current or future year)
2. <b>Consult with Head of Paid Service</b> and <b>seek corrective action</b> for the relevant year. Executive Director of Finance and Commercial Services considers need for <b>informal consultation with Internal and External Auditor</b>
3. In the event that <b>corrective action is successful</b> , no further action or report would be required
4. In the <b>event that the corrective action is not successful</b> , the Executive Director of Finance and Commercial Services will <b>draft a report</b> under Part VIII of the Local Government Finance Act 1988
5. <b>Consultation</b> about report with Head of Paid Service and Director of Governance (Monitoring Officer)
6. Executive Director of Finance and Commercial Services <b>signs report</b> - sent to every member of the council and the external auditor as soon as practical. The report should normally be sent with the summons to the Full Council meeting which will consider it. Proof of sending should be retained
7. From the date of issue, a <b>prohibition period</b> begins (no new expenditure may be undertaken). All budget holders (including schools) must be notified of restrictions. Within 21 days the Full Council (or Cabinet, if appropriate) must meet to consider the report. The Head of Paid Service notifies the External Auditor of the date, time and place of the meeting
8. Full Council (or Cabinet, if appropriate) may <b>agree the report</b> and decide remedial action <b>or disagree the report</b> and take no action. The prohibition period ends the following day and the <b>Head of Paid Service notifies the External Auditor of the outcome</b>

## **Exceptions and other considerations**

10. There are a number of circumstances which would not necessarily result in the preparation of a section 114 report. These include:
  - Emerging matters or a developing situation. This would include occasions where a view is requested on a proposal which may be under consideration but which if pursued could result in a reportable matter. A simple preliminary request would not give rise to a need to report, although any further developments would need to be monitored.
  - Items of trivial expenditure or loss of income.
  - Cases of discovered fraud (which may in any case lead to criminal prosecution) would not normally result in a requirement for a section 114 report but will be dealt with under the Council's existing Anti-Fraud and Corruption Strategy, as referenced elsewhere within the Financial Regulations.
  - A service overspend in and of itself is unlikely to give rise to a section 114 report, which would only be required where the Council's total resources are likely to fall short of expenditure and the Executive Director of Finance and Commercial Services judges that there is no reasonable prospect of the position being resolved or mitigated.
11. The above list is not exhaustive. In these and similar circumstances, the Executive Director of Finance and Commercial Services will give consideration to the need for a report under section 114, in consultation with other officers as required.
12. In the case of a developing situation, careful consideration will need to be given to the timing of any report, in particular to distinguish between an emerging situation and an actual one. Every reasonable action will be taken to avoid the need for a section 114 report by providing timely financial advice including alternative options to avoid an emerging reportable situation from ultimately arising.

## **Further action**

13. The Executive Director of Finance and Commercial Services' statutory duties under section 114 are discharged once a report has been issued to Full Council (or Cabinet, if appropriate). In the event that Full Council (or Cabinet, if appropriate) does not agree with a report issued under section 114, it is likely that any further formal action would be taken by the External Auditor through the issue of an advisory notice under section 29 (schedule 8) of the Local Audit and Accountability Act 2014 or by applying to the court for a declaration under section 31 of the above Act.

## **Part 11D: – Contract Standing Orders**

### **Contents**

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3. Interpretation
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12. Contracts and formalities
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17. Prevention of corruption and declaration of interests

## **1. Notice to External Parties**

- a. These Standing Orders shall not create or form a part of any contract or binding undertaking, express or implied, with any party outside the Council.
- b. The Council does not make any binding commitment to external parties about the conduct of procurement exercises, other than to abide by its statutory and common law obligations.
- c. In seeking quotations or inviting tenders, the Council is not making an offer to enter into any contract

## **2. Context**

- a. The Council is a contracting authority for the purposes of public procurement law and is legally bound to comply with certain practices and procedures in the award, management and variation of contracts.
- b. The law requires the Council to treat suppliers and potential suppliers equally and without discrimination and to act in a transparent and proportionate manner. Procurement activity is also subject to subsidy & competition (formerly state aid) law.
- c. All procurement activity must comply fully with the requirements of the Public Contracts Regulations 2015, the Concession Contracts Regulations 2016 and other legislation.
- d. Procurement is subject to local government law, including the general duty of best value, and to equalities legislation.
- e. Certain procurement exercises are subject to the Public Contracts (Social Value) Act 2012.
- f. Procurement in specific fields – such as tendering for public transport and procurement undertaken on behalf of the NHS – is subject to specific legislation.
- g. Compliance with these standing orders does not of itself ensure compliance with all applicable laws in every circumstance.

## **3. Interpretation**

- a. In these standing orders:
  - i. “CCR 2016” means the Concession Contracts Regulations 2016;
  - ii. the “CCR award process” is the process set out in CCR 2016 for the award of concession contracts;
  - iii. “central purchasing body” has the meaning given to it in PCR 2015;
  - iv. “Contracts Finder” has the meaning given to it in PCR 2015;
  - v. a “controlled entity” is an entity which the Director of Governance has determined to meet the conditions set out in regulation 12(1) of PCR2015 and has included in the list of controlled entities as required by paragraph 6 (k) of these standing orders;

- i. “Official Journal of the European Union” or “OJEU” means the supplement to that journal in which PCR 2015 states that notices concerning procurement processes are to be placed, or any successor publication designated for the same purpose after the UK leaves the European Union;
- ii. “PCR 2015” means the Public Contracts Regulations 2015 (as amended);
- iii. the “PCR thresholds” means the threshold amounts set in regulation 5 of PCR 2015, or in the case of works or service concession contracts, the threshold amounts set in regulation 9 of CCR 2016;
- iv. “PCR tender processes” are the processes stipulated in PCR 2015 for advertising and conducting procurement processes where the value of the anticipated contract exceeds the relevant PCR threshold; and
- v. a “relevant contract” is a contract for pecuniary interest between the Council and any other contracting party, except for
  - a. contracts relating to the lending of money by the Council and the raising of capital by the Council (but do include the procurement of financial services);
  - b. agreements regarding the acquisition, disposal, or transfer of land, leases of pre-existing property, and licenses – the rules governing these are outlined in the Hierarchy of Decision Making on Property Matters Under the Constitution of Norfolk County Council;
  - c. the award of grants by the Council;
  - d. the purchase of historical documents, works of art or museum specimens;
  - e. contracts of employment between the Council and an individual; and
  - f. contracts for loans.

#### **4. Responsibilities**

- a. The Director of Procurement has overall responsibility for procurement by the Council and shall consult as necessary with the Director of Governance and the Executive Director Finance & Commercial Services and Commercial Services.
- b. Chief Officers are responsible for compliance with these standing orders within their directorates.
- c. Officers shall comply with guidance issued by the Director of Procurement when undertaking procurement activities.
- d. Any duty or obligation stated in these standing orders to be the duty or obligation of the Director of Procurement or the Director of Governance may be delegated by them to another officer provided that the delegation is in writing.
- e. The Director of Procurement authorises the placement of notices on Contracts Finder and in the Official Journal of the European Union.

- f. Invitations to tender may only be issued, and tender processes managed, by officers authorised to do so by the Director of Procurement, or by organisations approved by them to act as procurement agents on behalf of the Council.

## **5. Schemes of delegation**

- a. Chief Officers shall put in place schemes of delegation which identify which officers have responsibility (and the level of their financial delegation) for:
  - i. agreeing tender processes and procurement plans;
  - ii. approving tender and contract documents;
  - iii. awarding contracts;
  - iv. approving orders and the payment of invoices; and
  - v. managing contracts, including performance monitoring and the agreement of specification and price variations.

## **6. Applicability and scope**

- a. These standing orders apply to all officers of the Council. Officers must ensure that any agents, consultants or contractual partners they allow to act as procurement agents on behalf of the Council (e.g. Norse Group companies, when procuring on behalf of the Council) also comply with them.
- b. These standing orders do not apply to maintained schools, whose procurement activities are governed by the Council's Local Management of Schools Scheme.
- c. These standing orders apply to all relevant contracts made by, for, or on behalf of the Council, including when the Council is acting jointly or on behalf of other public bodies.
- d. Paragraph 14 of these standing orders applies to grants.

## **7. Choice of procurement process**

This paragraph 7 is to be read in conjunction with paragraph 8 below.

### **Thresholds**

- a. The nature of the procurement process to be followed is set out in the tables below, subject to paragraphs (d) to (k) and depends on the total value of the contract being procured.
- b. In exercising their discretion to approve a higher limit for awarding a contract without a competitive process or without a published competitive process, the Director of Procurement shall have regard to considerations including best value, compliance with subsidy & competition law and (for so long as the Council is subject to EU procurement law or equivalent legal duties) the likely interest in the contract from suppliers based in EU states.
- c. The Director of Procurement has the discretion to require any contract or class of contracts to be procured via a competitive process.



d. The total value of a contract is to be calculated in the manner prescribed by PCR 2015.

Table 1: social and other specific services listed in Schedule 3 to PCR 2015.

	Process	Value limit (excluding VAT)	Higher limit if approved by the Director of Procurement	Additional requirements
A	Single quote (with evidence of value for money, such as research into typical prices or rates)	Up to £1,000 (or £10,000 if approved by an officer at grade N or above)	Up to £200,000	Contract award notices must be published on Contracts Finder for contracts with a value of £25,000 or more.
B	<p>(a) Request for quotation issued to three or more capable bidders other than via a framework agreement or dynamic purchasing system; or</p> <p>(b) Request for quotation issued to all capable bidders in the relevant lot of a framework agreement or dynamic purchasing system; or</p> <p>(c) Allocation of work within a framework agreement or similar arrangement in accordance with procedures set out in that arrangement.</p>	Up to £50,000	Up to PCR threshold	
C	Openly advertised competitive process below PCR threshold	Up to the relevant PCR threshold.		Any call for competition must be advertised on Contracts Finder in addition to any other publication

	Process	Value limit (excluding VAT)	Higher limit if approved by the Director of Procurement	Additional requirements
D	<p>(a) PCR tender process; or</p> <p>(b) competition under a dynamic purchasing system or framework let in accordance with PCR 2015; or</p> <p>(c) award under a single-operator framework agreement; or</p> <p>(d) award under a multi-vendor framework agreement without reopening competition subject to regulation 8(a) of PCR 2015; or</p> <p>(e) purchase of services from or via a central purchasing body in accordance with regulation 37 of PCR 2015; or</p> <p>(f) process complying with Section 7 of PCR 2015 advertised by means of a contract notice or a prior information notice complying with regulation 75.</p>	Over the relevant PCR threshold		Appendix 15 of the Constitution sets out circumstances where a decision must be taken by the Full Council. These include any decision that commits the Council to revenue or capital expenditure of over £100m

Table 2: other services, works, concession contracts and supplies

	Process	Estimated total value (excluding VAT)	Higher limit if approved by the Director of Procurement	Additional requirements
A	Single quote (with evidence of value for money, such as research into typical prices or rates)	Up to £1,000 (or £10,000 if approved by an officer at grade N or above)	Up to £100,000 for supplies and services; £1,250,000 for works	Contract award notices must be published on Contracts Finder for contracts with a value of £25,000 or more.
B	(a) Request for quotation issued to three or more capable bidders other than via a framework agreement or dynamic purchasing system; or  (b) Request for quotation issued to all capable bidders in the relevant lot of a framework agreement or dynamic purchasing system	Up to £50,000	Up to PCR threshold	
C	Tender process below PCR threshold	Up to the relevant PCR threshold.		Any invitation to tender must be advertised on the government's Contracts Finder website in addition to any other publication

	Process	Estimated total value (excluding VAT)	Higher limit if approved by the Director of Procurement	Additional requirements
D	<ul style="list-style-type: none"> <li>(a) PCR tender process; or</li> <li>(b) CCR award process in the case of concession contracts; or</li> <li>(c) competition under a dynamic purchasing system or framework let in accordance with PCR 2015; or</li> <li>(d) award under a single-operator framework agreement; or</li> <li>(e) award under a multi-vendor framework agreement without reopening competition subject to regulation 8(a) of PCR 2015; or</li> <li>(f) purchase of services from or via a central purchasing body in accordance with regulation 37 of PCR 2015.</li> </ul>	Over the relevant PCR threshold		Appendix 15 of the Constitution sets out circumstances where a decision must be taken by the full Council. These include any decision that commits the Council to revenue or capital expenditure of over £100m.

## **Specific categories of expenditure**

### Highway works

- e. Where a third-party commissions works that tie into or modify the Council's highway and the Council sets the specification, PCR 2015 may apply. Such works may:
  - i. be undertaken by a highways contractor appointed by the Council under these standing orders; or
  - ii. where the relevant Chief Officer permits, and subject to requirements for the placing of contract award notices, and where the value is below the PCR threshold for works, be undertaken by another contractor appointed by the third-party that meets the Council's reasonable requirements including professional and financial standing, insurance cover and technical competence.

### Local bus services

- f. Where an officer wishes to let a contract for the purchase of season tickets on a local bus service registered as such with the local traffic commissioner, and only two bus operators have registered such services on the bus corridor concerned, the requirement at Row B of table 2 to obtain three quotations is to be read as requiring two quotations from the two operators concerned.

### Legal services

- g. The Director of Governance may commission legal services of the types set out in regulation 10 (d) of PCR 2015 without competition.

### Software

- h. Where the Council has purchased perpetual software licences, the Director of Procurement, in consultation with the Director of IMT & Chief Digital Officer, may authorise the purchase of software support and maintenance services without competition from the software licensor, where the provisions of regulation 32 (2) (b) (iii) PCR 2015 apply or the purchase is otherwise lawful.

## **Inter-authority cooperation**

- i. The above requirements for competition do not apply if the proposed arrangement is within regulation 12 (7) of PCR 2015.

## **Controlled entities**

- j. Where a supplier to the Council is a controlled entity, the above requirements for competition do not apply. However, there will be a need to ensure compliance with both Best Value and Subsidy & Competition Aid law (and any other relevant matters that may arise from time to time) before doing so.
- k. Only the Director of Governance may decide whether a given entity is a controlled entity. The Director of Governance shall maintain a list of controlled entities and publish it on the Council's intranet.

## **8. Specialist Purchases and Corporate Contracts**

- a. Certain goods, services or works, because of their nature, require specialist skills and/or expertise to be procured effectively, irrespective of their value

- b. The Director of Procurement may maintain and publish on the Council's intranet a list of these reserved areas of spend and the thresholds at which restrictions apply ("Specialist Purchases"). They may also specify on that list, the posts whose occupants are authorised to buy within those areas and thresholds ("Specialist Buyers").
- c. Only officers who are named Specialist Buyers shall have the authority to enter into contracts for these Specialist Purchases.
- d. The Director of Procurement may maintain and publish on the Council's intranet a list of contracts that are to be used exclusively for particular purposes ("Corporate Contracts"). No officer shall let or use any other contract for these purposes.
- e. Any exception to the provisions of this paragraph 8 must be approved in advance by the Director of Procurement.

## **9. Reserved contracts**

- a. The Council may restrict the right for organisations to participate in the award of a Contract to classes of organisation that meet the conditions of either regulation 20 or regulation 77 of PCR 2015.

## **10. Exemptions to these standing orders**

- b. Exemptions may be granted as follows
  - i. Subject to the law, a Chief Officer may approve an exemption to any part of these standing orders that is necessary because of an emergency creating immediate risk to persons or property or causing serious disruption to Council services (including any emergency or disruption under the Civil Contingencies Act 2004). The Chief Officer must, as soon as possible, notify the Director of Procurement.
  - ii. In exceptional circumstances and subject to the law, any requirement to seek more than one tender or quotation may be disapplied, subject to consultation in advance with the Leader of the Council (for exemptions valued over £100,000) and authorisation in advance by the Director of Procurement and Director of Governance.
  - iii. Any other exemption to these standing orders may only be made within the relevant law and with the authority of the Cabinet.
- c. The Director of Procurement shall ensure that all exemptions granted for the award of contracts valued in excess of £250,000 are reported to Cabinet within three months of their being granted.

## **11. Relevant considerations**

- a. An officer proposing to undertake a procurement exercise shall:
  - i. appraise the need for the expenditure and its priority in light of budgetary constraints;
  - ii. confirm that there is Member, or delegated, approval for the expenditure;
  - iii. secure the involvement of the procurement team at an early stage;

- iv. confirm that the proposed procurement complies with paragraph 7 (Specialist Purchases and Corporate Contracts) of these standing orders;
  - v. consider whether it is necessary to consult – whether as a matter of good practice, to comply with Best Value Statutory Guidance or the Public Contracts (Social Value) Act 2012, or to support compliance with the public-sector equality duty under the Equality Act 2010;
  - vi. comply with the requirements of section 18 (Social Value) of these Contract Standing Orders, and
  - vii. comply with the public-sector equality duty.
- b. In setting the specification, selection criteria and tender evaluation criteria, the relevant officer shall have regard to policy, reputational and legal considerations including:
- i. alignment with the council's policies, priorities and objectives;
  - ii. minimisation of whole-life cost – not just initial costs;
  - iii. the requirements of the Public Contracts (Social Value) Act 2012;
  - iv. the public-sector equality duty;
  - v. the requirement to include accessibility criteria for disabled persons or design for all users (regulation 42 of PCR 2015);
  - vi. tax compliance, including:
    - a. checking employment status for tax purposes (IR35);
    - b. ensuring that the specification accurately reflects the work undertaken and the nature of the role and the constraints on it; and
    - c. deducting tax and national insurance at source if the off-payroll working rules apply;
  - vii. the criticality of the service and the need for assurances as to bidders' financial stability and/or business continuity arrangements; and
  - viii. the requirements of section 18 (Social Value) of these Contract Standing Orders.

## **12. Contracts and formalities**

- a. All contracts must be formally concluded in writing before the supply, service or work begins.
- b. A purchase order must be raised prior to any works or services commencing or goods being procured.
- c. Contracts shall be written in plain English and shall adopt either:
  - i. conditions of contract developed by or agreed by the Director of Procurement for specific types of procurement or specific procurement projects; or
  - ii. conditions of contract produced by professional bodies and agreed by the Director of Procurement; or

- iii. conditions of contract within collaborative contracts let by other public contracting authorities; or
  - iv. the Council's General Conditions of Contract as a bare minimum; or
  - v. exceptionally, conditions of contract requested by suppliers; but only where the use of these conditions has been previously agreed by the Director of Procurement.
- d. All contracts, regardless of value, shall as a minimum clearly specify:
- i. a full description of what is to be supplied or done;
  - ii. the quantities to be provided;
  - iii. the provisions for payment (i.e. the price to be paid and when);
  - iv. the time(s) and location(s) for delivery or performance;
  - v. the provisions for the Council to terminate the contract; and
  - vi. the provisions for indemnity (where required) and insurance.
- e. Conditions of contract shall require transmission of payment by the Council within thirty days of a valid, undisputed invoice and shall incorporate the terms required by regulation 113 of PCR 2015 regarding prompt payment of sub-contractors.
- f. In accordance with regulation 71(3) of PCR 2015, in the case of works contracts and in respect of services to be provided at a facility under the direct oversight of the Council, the conditions of contract shall require that, no later than when the performance of the contract commences, the main contractor shall notify to the Council the name, contact details and legal representatives of its subcontractors, involved in such works or services, in so far as known at the time.
- g. The above conditions (12a to 12f) do not apply to low value, one-off retail purchases where a purchasing card is used.
- h. Where contracts are awarded which involve the transfer of Council staff, or of former Council staff who were previously the subject of an outsourcing of service by the Council, they shall include provisions to ensure that the relevant pension requirements are complied with and that the Council is indemnified. Where the Council is a third-party to any transfer, the contract shall in addition ensure that the Council has access to staff and employee information on request.
- i. Contracts may be concluded by signature by an officer or officers approved to do so under the department's scheme of delegation, or under the Common Seal of the Council.
- j. Where two signatures are required under the scheme of delegation, at least one must be that of a person not involved in the tendering or negotiation of the contract.
- k. Unless otherwise agreed by the Director of Governance, a contract must be entered into as a deed where:
- i. the Council may wish to enforce the contract more than six years after its end; or



ii. there is any doubt as to whether valid consideration is being created under the contract.

- i. Contract sealing shall be carried out by an officer authorised by the Director of Governance. This can take place after a quotation or tender has been accepted provided that the completion of this requirement is made a condition of acceptance of the quotation or tender by the Council.

### **13. Contract management and variation**

- a. The officer responsible shall ensure that all significant contracts have a suitable written contract management plan in place. Officers shall also manage each contract over its entirety, to a level of detail proportionate to the contract's risk and value.
- b. Where an existing contract remains subject to the former Code of Practice on Workforce Matters in Local Authority Service Contracts, the responsible officer shall ensure that compliance with that code is monitored.
- c. Officers shall consult with the Director of Procurement as soon as reasonably practicable when they become aware that any significant dispute or claim may arise in relation to a contract or procurement exercise.
- d. Officers shall manage contracts to reflect the specification, to ensure tax and national insurance deductions are made at source if that was the result of the off-payroll working assessment, and to re-evaluate off-payroll status if the terms and conditions or working practices change.
- e. Chief Officers may agree variations to contracts provided that these are lawful under PCR 2015 and there is adequate approved budget provision. Before agreeing any variation, Chief Officers shall satisfy themselves that a contract variation offers comparable or better value for money than going out to competition or that a contract variation is the only possible approach by virtue of exclusive rights or for reasons of urgency. Any variation or variations to a fixed term contract which in aggregate result in additional costs exceeding 5% of the original contract value or £50,000 (whichever is the greater) shall be subject to the prior approval of the Director of Procurement.
- f. Where a Chief Officer becomes aware that any major contract will exceed by a significant margin the approved budget or time for completion, or is incurring significant risks not initially identified, this shall be reported at the earliest opportunity to the relevant Cabinet Member; if the additional costs cannot be accommodated within the service's budget this shall be reported to Cabinet as required by the Financial Control Standards.

### **14. Grants**

- a. A grant may be made where the Council is not performing a statutory duty, but the provision can be demonstrated to assist with its wider aims and objectives. A grant need not be made via a competitive process.
- b. Officers must satisfy themselves, taking advice as necessary, that any proposed transaction is a grant rather than a contract for services before treating it as such.
- c. Where the Council is using grant monies itself or passing grant monies to a third-party, the application of that money shall be subject to the requirements of the relevant grant

funding body. The fact that a transaction is funded by a grant made to the Council does not automatically mean that that transaction is also a grant.

- d. When making a grant, the relevant officer shall:
  - i. treat all potential grant applicants fairly;
  - ii. act in a fair, transparent and consistent manner in relation to the making of the grant;
  - iii. set out the terms of the grant, in writing; and
  - iv. ensure that best value is met and that there is no subsidy & competition law infringement.

#### **15. Conduct of Tendering and Competitive Processes**

- a. The appropriate competitive process must be chosen according to the requirement and the value of the contract over its full lifetime, including any possible contract extensions, as set out in paragraph 7.
- b. In order to secure best value, officers may make use of collaborative procurement arrangements, with the approval of the Director of Procurement. Such arrangements may include, for example, collaborative contracts let by:
  - i. other local authorities; or
  - ii. ESPO, other public sector purchasing consortia, or other UK contracting authorities (e.g. central government departments or agencies); or
  - iii. controlled entities.
- c. When inviting tenders or quotations, officers must set out clearly:
  - i. the terms on which the tender or procurement process is being conducted;
  - ii. the deadline for response (which must be reasonable);
  - iii. the applicable conditions of contract;
  - iv. the specification; and
  - v. how the tender or quotation will be evaluated.
- d. Technical specifications
  - i. Technical specifications shall be formulated in accordance with regulation 42 of PCR 2015.
- e. Receipt and evaluation of tenders
  - i. Officers shall use an electronic tendering and/or electronic auction system approved by the Director of Procurement to manage the tendering exercise, including the receipt of tenders.
  - ii. Subject to the law the Director of Procurement has discretion to deal with non-compliant tenders, including whether to accept tenders after the submission deadline has passed (where exceptional circumstances prevail) and whether to seek clarification of a response.

- f. Standstill period
  - i. Officers shall observe a standstill period between provisional award and award where the law requires.
  - ii. For those procurements above the PCR threshold where observance of a standstill period is voluntary, a standstill period shall nevertheless be observed unless the Director of Procurement decides otherwise.
- g. The European Single Procurement Document (ESPD)
  - i. The Council and its agents may receive a completed ESPD in place of published pre-qualifying questions or tender response which shall be accepted provided that it demonstrates that it is compliant, it demonstrates that the bidder meets the relevant requirements, it is submitted by the published deadline and through the required e-communications tool.
  - ii. The Director of Procurement must be consulted prior to the rejection of any ESPD where the information contained in the ESPD or lack thereof is the reason for the rejection.

## **16. Record Keeping**

- a. Officers shall ensure that records of procurement activity are created and retained:
  - i. in all cases, sufficient to justify decisions taken in all stages of the procurement procedure and the subsequent creation and management of the contract;
  - ii. in accordance with the Council's retention policies; and
  - iii. for procurement exercises covered by Part 2 of PCR 2015, in accordance with regulations 22, 83 and 84 of PCR 2015.

## **17. Prevention of Corruption and Declaration of Interests**

- a. Officers shall comply with the Council's Code of Conduct for Employees. In particular:
  - i. no officer shall use or appear to use their position to obtain any personal or private benefit (including benefit accruing to connected third parties) from any contract entered into by the Council;
  - ii. officers' attention is drawn to the provisions of the Code of Conduct relating to the separation of roles during tendering;
- b. With regards to any contract that has been proposed or entered into by the Council, officers must disclose in writing to their Chief Officer any instances:
  - i. where they have any relationship with a supplier; or
  - ii. where they have any personal interest (financial or non-financial) which could reasonably be considered to conflict with the Council's interests or to favour or appear to favour one supplier over another.
- c. The Council's whistleblowing procedure applies to the letting, management and performance of contracts.

## **18. Social Value**

- a. Formal consideration of social value

- i. The law requires the Council to consider social value in services contracts over the OJEU threshold, but officers shall consider social value in above-threshold contracts for works as well as services. Officers shall set out their assessment of social value issues in Cabinet papers or papers to other decision makers.
- ii. Social value can:
  - be built into the contractual terms;
  - form part of the specification; and
  - form part of tender evaluation.

b. Contract packaging and market engagement

i. Prior information notices

Unless impracticable because of urgency, prior information notices shall be placed in respect of all procurement exercises. The notices should:

- provide information about the proposed procurement so that:
  - bidders have time to prepare;
  - smaller organisations can form consortia if they choose; and
  - potential sub-contractors can make themselves known to prime contractors;
- provide the opportunity for potential providers to engage in the development of the procurement process, the specification and the evaluation criteria, including the social value aspects;
- provide the opportunity for potential providers to comment on the proposed lotting strategy.

ii. Division into lots

In accordance with the Public Contracts Regulations 2015, for each contractual opportunity, the potential to break the requirement down into lots shall be considered. The rationale for the lotting strategy shall be documented and included in the procurement documents.

iii. Co-production

For services which have a significant effect on people – education, health, care, transport and housing services and services affecting the public realm – appropriate consultation shall be undertaken with those affected and, for people services, commissioners shall work closely with users or their representatives.

c. Requirements to be built into contracts

- i. Appropriate social value requirements shall be built into contract terms or specifications. Where appropriate, bidders' ability to meet these requirements shall be tested through the procurement process; compliance with these requirements shall be monitored, to a proportionate degree, through the contract management process.

ii. General

Contracts shall include requirements for the following:

- payment within thirty days, with this requirement being passed down the supply chain;<sup>4</sup>
- compliance with the Equality Act 2010;
- compliance with the Bribery Act 2010;
- compliance with living wage legislation and with requirements to check entitlement to work;
- appropriate measures to deter crime and disorder:
  - measures to prevent fraud, where Council or client money is being handled;
  - measures to prevent theft of cash or goods;
  - requirements for 'security by design' where buildings or infrastructure are being built or modified;
- appropriate health, safety and environmental requirements; and
- appropriate requirements for workforce development.

iii. Blacklisting

Construction contracts shall include a requirement to abide by the Employment Relations Act 1999 (Blacklists) Regulations 2010.

iv. Cyber-Security

Contracts for software as a service and hosted IT systems and contracts that involve processing personal data or data that is essential for business continuity shall include:

- appropriate cyber security and resilience requirements, typically *cyber essentials* or *cyber essentials plus* as defined by the National Cyber Security Centre.
- appropriate business continuity and disaster recovery requirements.

v. Modern slavery

Contracts in sectors where there is an elevated risk of modern slavery, such as waste and construction, shall include requirements for contractors to mitigate the risks. All contracts over £10m per annum shall include requirements for contractors to segment their supply chains by modern slavery risk and to proactively manage modern slavery risk in segments where there is an elevated risk.

vi. Diverse supply chains

Contracts valued over £10m and contracts likely to involve material sub-contracting shall generally include provisions requiring the promotion of diverse and local supply chains, including:

<sup>4</sup> This requirement applies to all contracts under the Public Contracts Regulations 2015

- promotion of sub-contract and supply opportunities to the Norfolk business community; and
- promotion of sub-contract and supply opportunities to women-owned businesses, BAME-owned businesses and businesses owned by people with other protected characteristics under the Equality Act.

vii. Workforce health

For contracts valued over £10m, consideration shall be given to including requirements to promote good mental and physical health in the workforce.

d. Social value opportunities to be considered for evaluation

- i. Opportunities to promote social value through the evaluation process – in other words, to give extra marks for additional value - shall be considered for each significant procurement exercise.
- ii. In considering these opportunities, the cost shall be borne in mind. By granting marks for social value in a procurement process, the buyer is saying that it is willing to pay extra for those social value features. Officers shall consider whether this is the most cost-effective way of obtaining the desired social benefit.

iii. Skills development – apprenticeships, training and work experience

The opportunity to support skills development by creating quality apprenticeship, training and work experience opportunities through major contracts is significant and should always be considered, particularly in light of its potential impact on social mobility. This will apply to young people in the care of Norfolk County Council and to Care Leavers.

iv. Support for disadvantaged groups

Opportunities to provide support sessions, trade taster sessions and similar opportunities for disadvantaged groups (including BAME people) and to promote employment of disadvantaged groups should always be considered.

v. Support for the local area

Opportunities exist for suppliers to build social value by seeking actively to recruit local people and local subcontractors.

vi. Community and client capacity

The opportunity to make communities more cohesive, sustainable and resilient should always be considered. Approaches to service delivery that will have a long-lasting impact – for example by strengthening the local voluntary sector or enabling clients to be less dependent on support – should be favoured over approaches that are less sustainable.

vii. Volunteering and mentoring

The contribution of volunteering and mentoring time in the local community could form useful added value, but care should be taken that the approach

does not simply allow large providers to rebadge volunteering that their staff already undertake and charge extra for it.

viii. Environmental

Where there may be opportunities for significantly better environmental performance, it may be appropriate to include environmental performance as an 'added value' criterion, rather than simply setting a minimum standard.

Environmental standards above the statutory minima may be particularly relevant where they:

- materially reduce greenhouse gas emissions;
- support the council's public health objectives, for example by improving local air quality;
- contribute towards the environmental and landscape objectives of the Norfolk Spatial Strategy.

## **Part 11E: Planning Procedures – Code of Best Practice**

### **1. Introduction**

- 1.1 This is a Code of Best Practice for dealing with planning applications and related matters. It takes account of the recommendations of the Third Report of the Nolan Committee and the guidance produced by the Local Government Association as well as drawing on the County Council's own experience in these areas including the views of the Standards and Planning Regulatory Committees.
- 1.2 The aim of the Code is to give clear guidance to County Council Members and officers on how they deal with planning matters. In doing so, it should also seek to ensure that the public have confidence that the decision making of the County Council is open and fair.
- 1.3 The majority (90%) of planning matters are normally dealt with by officers under delegated powers. Only the most controversial and contentious matters are determined through the County Council's Planning Regulatory Committee. This Code applies whoever takes the decision.
- 1.4 This Code applies to appointed members of the Planning Regulatory Committee and substitutes drawn from the nominated panel. References in the Code to Committee members therefore include substitutes and even the full Council if they take the planning decision.
- 1.5 The Code applies to the full range of planning matters determined by the County Council.
- 1.6 Failure to follow recommendations contained in this code could be considered in investigations into allegations of maladministration and might also indicate a breach of the Members Code of Conduct in Appendix 17 of the Constitution.

### **2. Declaration of interests**

- 2.1 The provisions of the Members Code of Conduct relating to interests are in Appendix 17 of the Constitution.
- 2.2 There will be a standing item on the agenda of all committees to facilitate the declarations of interest.
- 2.3 To assist Councillors in this difficult area training will be provided in accordance with this code.

### **3. Pre-determination**



- 3.1 It is a well understood principle that judicial and quasi-judicial decisions must not only be taken in a fair and unbiased way but must be seen to be so. Although planning committees are not quasi-judicial but administrative, the tendency of the courts has been to apply similar principles to planning committees.
- 3.2 Where applications are considered for County Council development or development on County Council Land those members of the Committee who have participated in the decision to apply for permission will declare that fact and not take part in the determination.
- 3.3 Where an external body, including a school, makes, initiates or is closely involved with an application for planning permission and members of the Committee (or their family members) serve on that body then the Committee member must declare an interest and not take part in the determination.
- 3.4 Where a member of the Committee serves on a Parish, Town or District Council which has commented on an application before the Committee, provided the member has not come to a final view on all the relevant matters before the Committee then they will declare that fact but may take part in the determination. If they have participated in a meeting on the application at Parish, Town or District level they should have it minuted at that meeting that they have not come to a final conclusion on the application.
- 3.5 Where however in the situation referred to in paragraph 3.4 such members have already decided in their own minds how the application should be decided then they must declare an interest and not take part in the determination.

#### **4. Development Proposals Submitted by Councillors and Officers**

- 4.1 The County Council fully recognises that proposals by serving Councillors and officers and their close friends and relations can easily give rise to suspicion of impropriety. In order to ensure that they are handled in a way that gives no grounds for accusations of favouritism:
- a) the Director of Governance will be informed of such proposals;
  - b) such proposals will be reported to the Planning Regulatory Committee for decision and not dealt with by officers under delegated powers. As part of the report the Director of Governance will confirm whether the proposal has been processed normally;
  - c) serving Councillors who act as agents for people pursuing a planning matter or who submit planning proposals in their own right must play no part in the decision-making process for that proposal; and
  - d) persons who are employed as planning agents should not serve as members of the Committee.
- 4.2 An application on the agenda relating to development by a member is likely to be a disclosable pecuniary interest or other interest and the Member needs to consider whether they should declare the interest and withdraw from the room during consideration of the matter.

## **5. County Council Development**

Proposals for the County Council's own development and that of wholly owned companies will be treated in the same way as those of a private developer particularly in relation to officers' advice, which must be impartial.

## **6. Lobbying of and by Councillors**

6.1 The County Council recognise that lobbying is a normal and perfectly proper part of the political process. The third report of the Nolan Committee noted that it was essential for local concerns to be properly ventilated and the best way to do this was through the local elected representative. However, lobbying can lead to the impartiality and integrity of a Councillor being called into question and in a number of cases lobbying has caused considerable public mistrust of Councils. As a result:

- a) when being lobbied, Councillors, and members of the Planning Regulatory Committee in particular, should take care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before it has been exposed to all the evidence and arguments;
- b) rather, they should restrict themselves to giving procedural advice, including suggesting to those who are lobbying that they should speak or write to the relevant Planning Officer in order that their views can be reported to the Planning Regulatory Committee;
- c) if Committee Members do express an opinion then they should make it clear that they will only be in a position to take a final decision after having heard all the relevant evidence and arguments at the Planning Regulatory Committee;
- d) Members of the Committee other than those who are Councillors for the affected Division(s) - for which see paragraph (e) - should not openly declare which way they intend to vote in advance of the Committee meeting and of hearing the evidence and arguments on both sides; and
- e) a Planning Regulatory Committee member who represents a Division affected by an application is in a difficult position if it is a controversial matter around which a lot of lobbying takes place. If the Member decides to go public in support of a particular outcome - or even campaigns actively for it - it will be very difficult for that Member to argue convincingly when the Committee comes to take its decision that they have carefully weighed the evidence and arguments presented. In those circumstances, because of the issue of predetermination, the proper course of action would be for the Member to declare an interest and not vote. The arrangements for public speaking include an opportunity for the Division Member to make representations.

Similarly, a Planning Regulatory Committee member who decides to go public in support of a particular outcome for a planning matter which does not affect that Member's Division should not speak or vote on that matter when it comes before the Committee.

62 In addition:

- a) Councillors should not put pressure on officers for a particular recommendation;
- b) Councillors should not mutually agree with one another on how to vote on particular planning matters; and
- c) Councillors should pass any relevant written information which they receive to officers so that it can be reported or responded to.

63 The essential point is that decisions on planning applications should be taken in a fair and open manner, in the meeting and on the evidence presented to the meeting.

## **7. Group meetings**

A protocol for group meetings is attached as Annex 1 to this code.

## **8. Pre-applications discussions**

8.1 The County Council recognise that discussions between a potential Applicant and the County Council prior to the submission of a planning application - and even after its submission - can be of considerable benefit to both parties. However, it would be easy for such discussions to be seen to become part of the lobbying process. To avoid this, the County Council have agreed that all pre-application discussions should take place within the following guidelines:

- a) it should always be made clear at the outset that the discussions will not bind the County Council to making a particular decision and that any views expressed are personal and provisional;
- b) any advice should be consistent and based upon the Development Plan and material considerations. In addition, all officers taking part in such discussions should make it clear whether or not they are the decision maker;
- c) a written note should be made of all pre-application discussions. At least one officer should attend such meetings and a follow up letter is advisable at least when documentary material has been left with the County Council. A note should also be taken of pre-application telephone discussions. However, information shared at pre-application discussions should only be placed on the planning register if it is not considered to be confidential; and
- d) care must be taken to ensure that advice is, and is seen to be, impartial; otherwise a subsequent report could appear to be advocacy of a particular case.

8.2 Councillors and officers should avoid indicating the likely outcome of a decision. However, an officer whilst clearly making no commitment may on the basis of the structure and local plans and policy documents give information on the likely planning issues that would need to be addressed.

8.3 These guidelines apply equally to meetings called by third parties, such as Parish Councils, to discuss planning applications.

## **9. Officer reports to Committee**

9.1 Committee reports on planning proposals will comply with the following guidelines:

- a) reports should be accurate and cover, amongst other things, the substance of objections and the views of consultees. (There will be an Agenda note to say where full copies of third-party representations and views of consultees may be inspected);
- b) relevant points will include a clear exposition of the development plan, the site or related history and any other material considerations;
- c) the report should have a clear recommendation; oral reporting by officers (except to update a report or to report on late response from Committees) should be extremely rare and carefully minuted when it does occur;
- d) reports should contain a technical appraisal which clearly justifies a recommendation; and
- e) if the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify this must be clearly stated.

9.2 Applicants or third parties who wish to bring matters to the attention of the Committee should do so in good time so that they can be incorporated in the written Committee Report. Information submitted less than 48 hours before the committee sits may not be seen until after a decision has been made and therefore not considered when determining the application. Similarly, the Chair may refuse to entertain material submitted for circulation on the day of the committee.

## **10. Public speaking at Planning (Regulatory) Committee**

The County Council has procedures for public speaking at the Committee. These are set out at section (A) of Appendix 26 of the Constitution

## **11. Decisions contrary to officer recommendation and/or the Development Plan**

11.1 The Law requires that where the Development Plan [i.e. the approved Minerals and Waste Plan and relevant Local and neighbourhood Plan(s)] is relevant, decisions must be taken in accordance with it, unless material considerations indicate otherwise. The personal circumstances of an Applicant will very rarely be a relevant consideration.

11.2 It follows that if the officer's report recommends approval of a departure, the justification for this should be included in full within the Report.

11.3 In addition, where the Planning Regulatory Committee is minded to take a decision contrary to the officer's recommendation, they should first give the officer the opportunity to explain the implications of the contrary decision.

11.4 If the Committee then makes a decision contrary to the officer's recommendation, the minutes should clearly state the reason(s) why, and a copy placed on the application file.

- 115 A Senior Legal Officer will always attend meetings of the Planning Regulatory Committee to ensure procedures are properly followed.

## **12. Committee site visits**

- 121 Site visits can cause delay and should therefore only be used where the expected benefit is substantial, e.g. where the visit will significantly assist the Committee's understanding of the issues or in controversial cases or where it will demonstrate to the public or the applicant that Members have listened to their argument. The reason for the site visit should be minuted.
- 122 The purpose of a visit is to make a 'tour of inspection' by Members accompanied by an officer(s) who will point out any relevant issues and areas of interests/importance. It is not a meeting where any decisions will be made, or a formal minute written. Decisions will be taken at the next appropriate formal meeting of the Planning Regulatory Committee. However, a note will be drafted, and placed on file of salient issues and points such as:

Date, Venue, Attendance, Duration, Locations Inspected, Issues Addressed.

- 123 Invitations to the visit will be extended to other parties as appropriate, e.g.:

The District Council Parish Council

Local Member (where not a Member of the Committee)

The Applicant

Representatives of the objector(s)/supporters (where relevant)

Appropriate Consultees

These invitations will be sent out by the Head of Governance and Regulatory Services.

- 124 The visit will be chaired by the Chair (agreed or substitute) of the Planning Regulatory Committee. It will be at their discretion whether to allow those invited to the site visit to address the Members and this will be based on speaking on specific issues previously raised in writing. The Chair will need to ensure that parties are each treated fairly and equitably, and the appropriate standards of propriety are seen to be adhered to.
- 125 Members should avoid separate discussions with objectors or applicants during the visit and should not make unaccompanied site visits.
- 126 A substitute who attends the site visit should, if not substituting at the subsequent committee meeting when the application is determined, fully brief the committee member attending the committee meeting. The observations made by the substitute to the sitting member should be recorded in the minutes.
- 127 If a substitute who attended the site visit attends the subsequent committee with the sitting member (but is not voting) then the substitute should be given the opportunity to make comments to the meeting on the site visit.

## **13. Regular review of decisions**

- 13.1 As part of the Members training programme the Planning (Regulatory) Committee will from time to time visit the sites of implemented planning permissions to assess the quality of decisions made.

#### **14. Training**

- 14.1 It is recognised that the planning system is complex, ever-changing and therefore essential that Councillors have adequate and regular training.
- 14.2 Training for members of the Committee (and substitutes) will take the form of mandatory and non-mandatory (but desirable) sessions. The mandatory training session consists of a half-day session which addresses the role of the committee. Before serving on the committee, Councillors must attend the session and must attend a “refresher” session on an annual basis while they serve on the committee. Shorter, 45-minute (non-mandatory) sessions will be provided prior to each planning committee. As much notice will be given of the training sessions as possible. The training programme will be the responsibility of the Executive Director of Community and Environmental Services in consultation with the Director of Governance.

#### **15. Complaints and record keeping**

- 15.1 If a member of the public or an applicant wishes to complain about the County Council’s treatment of a planning application, then in the first instance they should contact the Executive Director of Community and Environmental Services in County Council. The complaint will be investigated, and an answer given. If the complainant is not satisfied with the answer, the complaint should be put in writing to the Executive Director of Community and Environmental Services, if possible, using the County Council’s customer complaint form. They will investigate the complaint and provide a written response. If this is still unsatisfactory, the complainant should write to the County Council’s Head of Paid Service who will carry out an internal review independent of the Community and Environmental Services Department.
- 15.2 So that complaints can be fully investigated and, in any case, as a matter of general good practice, record keeping will be complete and accurate. Every planning application file should contain an accurate account of events throughout its life, with particular care being taken with regard to applications that are likely to be determined under officers’ delegated powers. Such decisions should be as well documented and recorded as those taken by Members.
- 15.3 Decisions taken by officers under delegated powers will be exercised in an accountable way which will include placing on the file written justification for the exercise of the powers in a particular way.

## **Annex 1 – Protocol for group meetings**

1. Political Groups represented on the County Council may wish to hold pre-meetings prior to meetings of the Planning (Regulatory) Committee. In principle there is nothing wrong with this, but it is important that Members understand their purpose and that there must be no grounds for those interested in planning applications, be they the applicants or objectors, to misunderstand what happens in them.
2. This protocol therefore affirms that the purpose of the Group Meetings is for Group Spokespersons to feed back to the members of their Group on the Committee (or their official substitutes for that meeting) on relevant issues arising from their own briefings with officers. On this basis, the only persons who may be present at them are members of the Committee (or their official substitutes for that meeting) who will be attending the Committee Meeting which immediately follows. In particular, Local Members and those on the Panel of Substitutes who will not be substituting at that particular meeting will not attend except that substitutes may attend for training purposes.
3. There are existing procedures for Local Members to feed into the Committee any comments which they may have on an application. Provided these comments are received before the finalising of the Committee Report, normally two weeks before the meeting, they will be incorporated in it. In addition, there is an opportunity for Local Members to speak at the Committee Meeting itself. However, Local Members may occasionally wish to make their additional comments in writing and to deal with this it is proposed that a note be circulated to all Members of the Committee in time for any Group Meetings incorporating any additional views from the Local Member together with details of any further written representations received from other interested parties. The Chair or one of the officers will also refer to these additional comments during the introduction of the report.

# **Corporate Select Committee**

**Item No:12**

**Report Title: Corporate Property Policies**

**Date of Meeting: 14 March 2022**

**Responsible Cabinet Member: Cllr Peck, Cabinet Member for Commercial Services & Asset Management**

**Responsible Director: Simon George, Executive Director for Finance and Commercial Service**

## **Executive Summary**

Property (land and buildings) owned and acquired by Norfolk County Council (NCC) is a key corporate resource and is utilised to meet the County Councils priorities and to deliver services. The processes and procedures for the acquisition, re-use and disposal of property have been consistent over a number of years, delivered in accordance with Council policy and the constitution.

In November 2021 Norfolk County Council adopted the Strategic Property Asset Management Framework 2021/22 - 2026/27 as Council policy. To underpin the new framework, it is proposed to articulate the current procedures and principles for declaring property surplus, acquiring, leasing, and disposing of property in one document to provide a consistent and transparent approach to property asset management. This document will help ensure all such activity continues to be in accordance with statute and the Council's constitution and financial regulations.

## **Recommendations**

**The Select Committee is asked to:**

- 1. Review the current procedures for declaring property surplus, acquiring property, disposing of property and the leasing in and out of property.**
- 2. Recommend Cabinet reaffirm the current procedures for:**
  - Declaring NCC property surplus.**
  - Disposal, overage and clawback for the disposal of property assets (land and buildings) owned by Norfolk County Council.**
  - Third party occupation of Norfolk County Council property assets (land and buildings).**
  - Acquisition - Leased in/licensed in property assets (land and buildings), acquisition of freehold property assets (land and buildings).**



## **1. Background and Purpose**

- 1.1 Property (land and buildings) owned and acquired by NCC is a key corporate resource and is utilised to meet the County Councils priorities and to deliver services. Some property will from time to time become surplus due to changes in service delivery, ceasing a service or changes in NCC policy. In addition, new property will be acquired to meet identified demand.
- 1.2 The procedures and principles for the acquisition, re-use and disposal of property have been consistent over a number years, delivered in accordance with Council policy and the constitution.
- 1.3 Norfolk County Council adopted the Strategic Property Asset Management Framework 2021/22 - 2026/27 as Council policy on 29 November 2021. The framework has strong links to the Council's priorities and its business plan "Better Together for Norfolk".
- 1.3 The framework establishes the rules, culture, behaviours and key principles for the management and exploitation of the property portfolio.
- 1.4 To underpin the new framework, it is proposed to articulate the current procedures and principles for declaring property surplus, acquiring, leasing and disposing of property in one document to provide a consistent and transparent approach to property asset management. This will help ensure all such activity continues to be in accordance with statute and the Council's constitution and financial regulations.

## **2. Proposal**

- 2.1 The proposal is to articulate current procedures and principles in one document to provide a consistent and transparent approach to property asset management.

The key areas are:

- Declaring NCC property surplus.
- Disposal, overage and clawback for the disposal of property assets (land and buildings) owned by Norfolk County Council.
- Third party occupation of Norfolk County Council property assets (land and buildings).
- Acquisition - Leased in/licensed in property assets (land and buildings), acquisition of freehold property assets (land and buildings).

## **3. Current property procedures**

### **Declaring NCC Property surplus**

- 3.1 The Council's constitution has delegated the power to declare property surplus to the requirements of their services (**Appendix 5** on the constitution) as follows:
  - Childrens Services – Executive Director

- Adults Services – Executive Director
- Community and Environmental Services - Members of Departmental Management Team.

Such declarations are often the result of service redesign or in the case of schools, often because of a new school being built elsewhere.

3.2 Annex to **Appendix 5** – Local Member Protocol, provides guidance on when services should inform Members of closure of sites and building relating to their Division. It is anticipated at this point Members will provide their input to Services/Director of Property on any possible future reuse of surplus sites and buildings.

3.3 In outline the current procedures for declaring a property surplus are:

- Services inform the Director of Property of their intention to declare a property surplus.
- The property is presented to the Corporate Property Strategy Group (Council wide senior officer group) for review to ascertain if there is an unmet need from other services, to be retained for another beneficial use or to be disposed of.
- Cabinet will declare a property surplus to County Council use and at that point the Director of Property will arrange for disposal.
- For school sites, Section 77 of the Schools Standards and Framework Act 1998 and/or Schedule 1 to the Academies Act 2010 are likely to apply. If so the consent to dispose of school sites also requires the Secretary of State approval and as such causes an inbuilt delay in the disposal of these sites.

### **Disposal, overage and clawback for the disposal of property assets (land and buildings) owned by Norfolk County Council**

3.4 The power of disposal is a general power contained in Section 123 of the Local Government Act 1972. This section provides that Local Authorities are not permitted to dispose of land or grant leases in excess of 7 years for a consideration which is less than the best that can be reasonably obtained (best consideration), unless they obtain consent from the Secretary of State.

3.5 Government has recognised that to allow local authorities more flexibility, there may be circumstances where a Local Authority considers it appropriate to dispose of land at an undervalue (at less than best consideration). For such instances, the General Disposal Consent (England) 2003 is applied in prescribed circumstances thus:

- The Authority considers that the purpose for which the land and property is to be disposed is likely to contribute to the promotion or improvement of the economic, social or environmental wellbeing of the whole or any part of its area or any person's resident or present in its area.

**And**

The difference between the full market value and the actual consideration payable does not exceed £2million.

3.5 Capital receipts are allocated by the Council in accordance with its priorities laid out in the Capital Strategy/programme agreed each financial year. The exception is for disposal of school sites where the Department for Education stipulates receipts arising from school disposals are used for Educational or Sports purposes. In this respect the Council will allocate receipts to meet Educational/Sports priorities as laid out in the Capital Strategy/programme agreed each financial year.

3.6 In outline the current principles for disposal, overage and clawback are:

- All land and buildings to be disposed are based on receipt of best consideration, except where it can be demonstrated there are other and greater quantifiable benefits.
- Disposals will usually be by way of tender or auction. Direct sales will be the exception.
- For disposals at less than “best consideration” the initial approach will be to grant a lease that include restrictive covenants and/or clauses to allow the exercise of firm control over the leaseholders use of the property.
- Generally, there is not the provision for giving first refusal to any individual, organisation or company to purchase or make an offer to purchase NCC property assets. However, the Corporate Property Officer will consider which properties will be offered to NCC owned companies.
- All disposals over £250,000 in value will include provision for overage or clawback. Those at a lower level will be assessed case by case.

### **Third party occupation of Norfolk County Council property assets (land and buildings).**

3.6 Leasing out buildings presents a level of risk to the County Council that if not done properly can cause significant loss of value and even possibly the loss of a property asset. To manage this risk all leasing out (and licensing out) of NCC property is led by the Corporate Property Team (CPT). This ensures such activity is properly documented, rents, service charges and fees are collected, and maintenance and health & safety activities undertaken.

3.7 Some property is let out as a meanwhile use while the future of that property is determined with the aim of mitigating holding costs, other property is let in support of a council service, policy or priority.

3.8 In outline the current procedures and principles for third party occupation are:

- All lease out actions are led by the CPT or by Children’s Services for schools. who will instruct their agents accordingly.
- All occupation agreements for NCC property will include provision for the payment of an open market rent/license fee, in accordance with the council’s prevailing market rents policy.

- Property is not a free resource. To ensure transparency (and no hidden subsidies) no NCC property used for service delivery should be let/licensed out at less than best consideration i.e. for a peppercorn or rent/license fee lower than open market. Funding arrangements for the service should, if required, include provision for grant aid to organisations occupying NCC property providing that service.
- Every endeavor is made during negotiations to secure the following when leasing out NCC property:
  - A maximum lease term of 10 years.
  - Leases to be on full repairing and insuring basis.
  - Break clauses at a maximum of 3 years.
  - Leases outside of the 1954 Landlord and Tenant Act in terms of renewal.
- “Tenancies at Will” are avoided.

**Acquisition - Leased in/licensed in property assets (land and buildings),  
acquisition of freehold property assets (land and buildings)**

3.9 The Director of Property will consider what is the best option for the council whether a property should be acquired leasehold or freehold, taking into account the timescale for the need and the availability of suitable property.

3.10 Leasing in property exposes the council to a set of risks around security of occupation, repairs, health & safety and insurance. The appropriate revenue budgets need to be secured to pay for the occupation costs and for the dilapidations at the end of the lease.

3.11 The Council will acquire the freehold of a building to meet an identified service need. The appropriate revenue budgets need to be secured to pay for maintenance and statutory testing.

3.12 In outline, the current procedures and principles for acquiring property assets are:

- All acquisitions will be supported by a fully costed business case.
- All lease in/freehold acquisition actions are led by the Corporate Property Team and they will instruct their agents accordingly.
- Every endeavour is made during negotiations for leases to secure the following:
  - Maximum lease term of 10 years.
  - Leases to be on internal repairing and insurance basis.
  - Break clauses at a maximum of 3 years.
  - Leases to be inside the 1954 Landlord and Tenant Act in terms of renewal.
  - Ability to assign the lease.
- Buildings acquired freehold are expected to be have been previously well maintained, capable of adaption, compliant will all statutory requirements and economic in facility management terms (including repairs and maintenance).

## **4. Impact of the Proposal**

- 4.1 What has been described above are the current procedures and principles. The key impact of articulating the procedures and principles is to ensure a wider understanding of the Council's approach.

## **5. Evidence and Reasons for Decision**

- 5.1 Will improve the understanding of the procedures of disposing and acquiring property

## **6. Financial Implications**

- 6.1 Developing corporate property policies supports the aim to maintain and develop an economic, efficient, and effective property and land portfolio.

## **7. Resource Implications**

- 7.1 **Staff:** No implications.
- 7.2 **Property:** As described in the earlier parts of this report.
- 7.3 **IT:** No implications.

## **8. Other Implications**

- 8.1 **Legal Implications:** No implications.
- 8.2 **Human Rights Implications:** No implications.
- 8.3 **Equality Impact Assessment (EqIA) (this must be included):** No specific EqIA has been undertaken in respect of corporate property policies
- 8.4 **Data Protection Impact Assessments (DPIA):** No implications.
- 8.5 **Health and Safety implications (where appropriate):** No implications.
- 8.6 **Sustainability implications (where appropriate):** No implications.

## **9. Recommendations**

- 9.1 Review the current procedures for declaring property surplus, acquiring property, disposing of property and the leasing in and out of property.
- 9.2 Recommend Cabinet reaffirm the current procedures for:
- Declaring NCC property surplus
  - Disposal, overage and clawback for the disposal of property assets (land and buildings) owned by Norfolk County Council.

- Third party occupation of Norfolk County Council property assets (land and buildings).
- Acquisition - Leased in/licensed in property assets (land and buildings), acquisition of freehold property assets (land and buildings).

### **Officer Contact**

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**CORPORATE SELECT COMMITTEE – FORWARD WORKPLAN 2022**

<b>Corporate Select Committee</b>	<b>23 May 2022</b>	<b>11 July 2022</b>	<b>12 September 2022</b>
	<p><b>Part A –</b></p> <ul style="list-style-type: none"> <li>• myOracle implementation</li> <li>• NCC Workforce Strategy</li> <li>• Annual review of NCC Constitution</li> <li>• Smarter working progress report</li> </ul> <p><b>Part B –</b> Committee forward plan</p>	<p><b>Part A –</b></p> <ul style="list-style-type: none"> <li>• Customer experience strategy</li> <li>• NCC commercial investment</li> <li>• Smarter working progress report</li> </ul> <p><b>Part B –</b> Committee forward plan</p>	<p><b>Part A –</b></p> <ul style="list-style-type: none"> <li>• NCC Digital strategy progress report</li> <li>• Smarter working progress report</li> </ul> <p><b>Part B –</b> Committee forward plan</p>