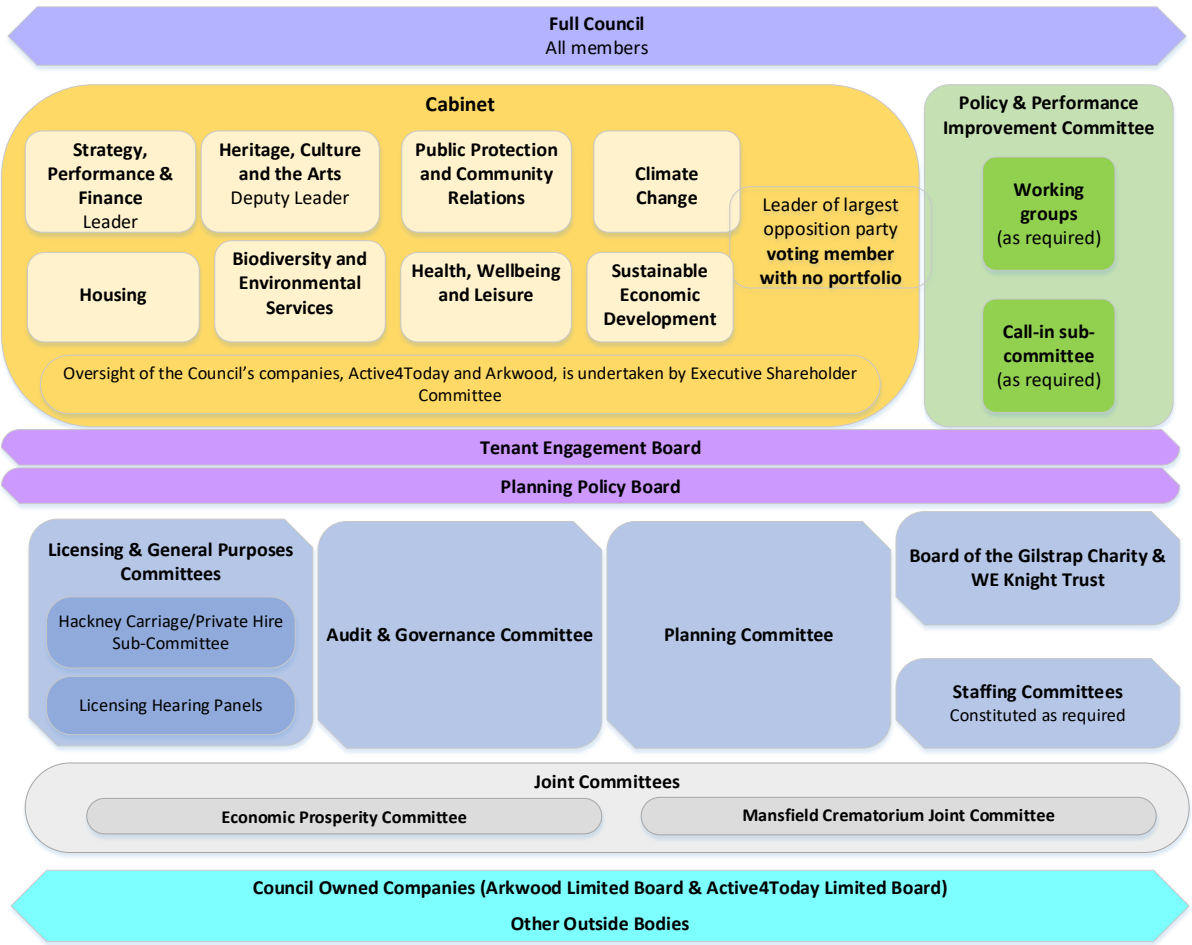


**PART C**

**RESPONSIBILITY FOR  
FUNCTIONS**



## **INTRODUCTION TO DECISION MAKING AND TYPES OF DECISIONS**

### **1. Decision-Making and Types of Decisions**

#### **1.1 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 in this Responsibility for Functions section of the Constitution

#### **1.2 Principles of Decision-Making**

All decision-making must comply with the relevant Procedure Rules (Part D of this Constitution), applicable legislation and the below principles must be applied in respect of all decisions, and decision-makers will:-

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

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

Decisions relating to the functions detailed in Part C Section 1 will be made by the Council.

#### **1.4 Cabinet Decisions (Executive Decisions)**

Cabinet decisions made by the Cabinet as a whole, a Committee of the Cabinet an individual Cabinet Member or individual Officer under the Cabinet Scheme of Delegation or the Officer Scheme of Delegation set out at Part C Section 2 and Part C Section 5 respectively must be made in compliance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information (England) Regulations 2021 and in accordance with the principles of decision-making set out above and the Protocol for Individual Cabinet

Member / Officer Executive Decision-Making set out at Part H Section 1 of this Constitution.

### **1.5 Non-Executive Decisions**

Non-Executive decisions made by the Council, a Committee or an individual Officer under the Officer Scheme of Delegation at Part C Section 5 must be made in accordance with the Openness of Local Government Bodies Regulations 2014.

### **1.6 Key Decisions**

A Key Decision is a decision made or to be made in connection with the discharge of an Executive function which is likely to:-

- result in the Council incurring revenue expenditure or savings of £150,000 or more; or,
- result in the Council incurring capital expenditure or saving of £300,000 or more; or
- be significant in terms of its effects on communities living or working in an area comprising two or more Wards or electoral divisions in the Council's area;

The requirements for publishing Key Decisions is set out in Part B of this Constitution – Section 4 Access to Information Rules.

### **1.7 Administrative Decisions**

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

- Does not need to prepare or publish a formal report, but must ensure consultation is undertaken where appropriate;
- Does not have to maintain a record of administrative decisions for the purpose of 2012 Regulations (see above at 10.4) or the 2014 Regulations (see above at 10.5) but must retain a record of decisions, with reasons, for audit purposes;
- Must ensure those who need to know of the decision are promptly informed of it.

**1.8 Decision Making by Council Bodies Concerning Licences etc**

Where the Council, a Committee, a Councillor or an Officer is determining the grant, refusal or sanction of a permit, licence, permission or right they will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

**1.9 Urgent Decisions**

In the event that any matters arise in circumstances rendering it impossible for the Leader, Cabinet or Council to give instructions within sufficient time in the normal conduct of their business for such matters to be properly dealt with, the Head of Paid Service (or in their absence a nominated deputy) shall have delegated authority to take or authorise all necessary steps to deal with the matters sufficiently to protect the interests of the Council and the public provided that they comply with the applicable legislative requirements for determining decisions, including identifying the decision as being urgent and as such not subject to 'Call-In', and shall, before taking action, consult:

- the Monitoring Officer and the Section 151 Officer (or their deputies); and
- in respect of Executive functions, either the Leader (or in their absence the Deputy Leader or in their absence another Cabinet Member); or
- in respect of non-Executive functions, the Chair of the Council (or in their absence the Vice-Chair of the Council or their absence the Chair of the relevant Committee).

The procedure for taking urgent decisions is set out in Part D Procedure Rules – Section 6.

## **SECTION 1: THE COUNCIL AND COMMITTEES NON EXECUTIVE FUNCTIONS**

### **1. The Chair and Vice-Chair of the Council**

#### **1.1 Appointment and Term of Office**

The Chair and Vice-Chair of the Council will be elected by the Council annually.

The office of Chair or Vice-Chair of the Council cannot be held by the Leader or a Cabinet Member.

#### **1.2 Functions of the Chair and Vice-Chair**

The Chair and in their absence the Vice-Chair, will have the following responsibilities:

- i. to uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary;
- ii. to preside 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;
- iii. 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 Councillors who are not Cabinet Members or who do not hold a the Chair of a Committee are able to hold the Cabinet and the Chairmen of Committees to account;
- iv. to promote public involvement in the Council's activities;
- v. to be the conscience of the Council; and
- vi. to attend such civic and ceremonial functions as the Council and he/she determines appropriate following receipt of advice from the Head of Paid Service.

### **2. The Council and Committees - Non-Executive Functions**

- 2.1 The Council's functions may be discharged by the Council as a whole or delegated to a Committee or individual Officer in accordance with the Non-Executive Function Scheme of Delegation or the Officer Scheme of Delegation.

These functions include:

- i. Those functions reserved as Council Functions by the Local Government Act 2000 (as amended) or any other Act.
- ii. Those functions set in Schedule 1 of the Local Authorities (Functions and Responsibilities (England) Regulations 2000 (as amended);
- iii. Those plans and strategies set out in Schedule 3 of the of the Local Authorities (Functions and Responsibilities (England) Regulations 2000 (as amended);

- iv. Those functions which would be Cabinet functions but for the circumstances set out in Schedule 4 of the Local Authorities (Functions and Responsibilities (England) Regulations 2000 (as amended);
- v. Those functions set out at below in paragraph 4 which the Council has determined shall be reserved to the Council.

### **3. The Council**

#### **3.1 Policy Framework**

The policy framework includes the following plans and strategies:

- i. The Council's Community Plan
- ii. Development Management Documents prepared in accordance with the Planning and Compulsory Purchase Act 2004 (or as subsequently amended)
- iii. The Development Plan
- iv. Licensing Authority Policy Statement
- v. Statement on Gambling Policy
- vi. Crime and Disorder Reduction Strategy
- vii. Annual Treasury Management Strategy
- viii. Financial Strategy (Medium Term Financial Plan, Revenue Budget, Council Tax Setting and Capital Programme)
- ix. Capital Investment Strategy
- x. Sustainable Community Strategy

#### **3.2 Budget**

The budget includes the allocation of financial resources to different services and projects, centrally held funds, determining the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, investments, the control of its capital expenditure, medium term financial plan, treasury management strategy and the setting of virement limits.

### **4. Functions of the Full Council**

4.1 The Council shall discharge those functions which are not Cabinet functions or are otherwise reserved to the Council.

4.2 The following functions are reserved to Full Council:-

- i. adoption and alteration of the Constitution apart from where legislation overrides an existing provision or changes to the Scheme of Delegation in relation to Executive functions and minor and consequential changes which are delegated to the Monitoring Officer;
- ii. approval or adoption of the Policy Framework and the Budget (both revenue and capital programme);
- iii. Appointment of the Chair and Vice-Chair of the Council;
- iv. appointment and removal of the Leader of the Council;

- v. approval and/or amendment of Committee responsibilities;
- vi. determination of the allocation of seats on Committees and the appointment of Members to Committees;
- vii. approval of the annual General Fund Budget and determination of the Council Tax;
- viii. adoption of the Members' Code of Conduct and Allowance Scheme and appointment of Independent Persons;
- ix. approval and amendment of the Petition Scheme;
- x. appointment of Head of Paid Service and designation of Statutory Officers including the Returning Officer and Electoral Registration Officer;
- xi. changing the name of the area, granting the Freedom of the District and conferring the title of Honorary Alderman;
- xii. electoral matters including functions relating to community governance, making a request for single member electoral wards to the Local Government Boundary Commission, making recommendations to the Secretary of State on district boundaries, ward boundaries, electoral divisions, ward or polling districts and making a resolution to change a scheme for elections;
- xiii. making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- xiv. Approving the Annual Senior Officer Pay Policy Statement;
- xv. Making compulsory purchase order (other than under planning grounds)
- xvi. all other matters which, by law, must be reserved to Council including Ombudsman reports where there has been a finding of maladministration with injustice and the report has been rejected, and Statutory Officer reports of the Head of Paid Service, Section 151 Officer, Monitoring Officer and External Auditor's Public Interest reports.

## **5. Council Meetings**

- 5.1 There are three types of Council meeting:
- i. The annual meeting;
  - ii. Ordinary meetings; and
  - iii. Extraordinary meetings;

and they will be conducted in accordance with the Procedure Rules set out at Part D Section 1 of this Constitution.



## **6. The Non-Executive Function Scheme of Delegation**

- 6.1 The Non-executive functions set out at paragraph 4 above are the responsibility of the Council.
- 6.2 Non-Executive functions must be discharged by the Council but unless otherwise reserved to the Council, may be exercised under delegated authority to a Committee (including a joint committee) or an individual Officer.
- 6.3 Non-Executive functions cannot be delegated to, or discharged by:-
- i. An individual Councillor (including the Chairmen of Non-Executive Committees);
  - ii. The Leader or Deputy Leader;
  - iii. The Cabinet, a Cabinet Committee or an individual Cabinet Member.
- 6.4 The Council has delegated to the following Non-Executive Committees the Non-Executive functions detailed in the Committees' remit and terms of reference):-
- i. Policy & Performance Improvement Committee
  - ii. Licensing Committee
  - iii. General Purposes Committee
  - iv. Audit & Governance Committee
  - v. Planning Committee
  - vi. Appointments and Conditions of Service Panels
  - vii. Trustee Board of Gilstrap & W.E. Knight
- 6.5 Where a Non-Executive Committee establishes a Sub-Committee it may delegate its functions to the Sub-Committee. The following Sub-Committees have been established:-
- i. Licensing Hearing Sub-Committee (Licensing Committee)
  - ii. Hackney Carriage & Private Hire Sub-Committee (General Purpose Committee)
  - iii. Call-In Sub-Committee (PPI Committee)
  - iv. Standards Hearing Sub-Committee (Audit & Governance Committee)
- 6.6 The composition of these Committees, their functions, responsibilities and terms of reference is set out below.
- ### **6.7 Non-Executive Function Delegation to Officers**
- 6.7.1 The Council has also delegated to individual Officers Non-Executive functions and decision-making via the Officer Scheme of Delegation and the Proper Officer Functions set out at Part C Section 5 of this Constitution.
- 6.7.2 Individual Officers making Non-Executive decisions must comply with the Openness of Local Government Bodies Regulations 2014 and in accordance with the decision-making principles set out at Part C Section 1, the Protocol for Individual Decision-Making Part H Section 1.

**7. COMMITTEES**

**7.1. THE POLICY & PERFORMANCE IMPROVEMENT COMMITTEE  
(PPI COMMITTEE)**

**Rules**

- The Committee Procedure Rules, Policy & Performance Improvement Procedure Rules (PPI Procedure Rules) and Access to Information Procedure Rules shall apply as applicable to the PPI Committee, it's Working Groups and Call-In Sub-Committee.
- Where the PPI Committee is exercising its overview and scrutiny function, the PPI Procedure Rules shall take precedence in the event of a conflict between them and Committee Procedure Rules
- The Call-In Procedure Rules shall apply to the Call-In Sub-Committee
- The business of a Working Group shall also be conducted in accordance with its terms of reference as determined by the Committee.

**Membership, Chair and Quorum**

Number of Members	15 (with a Chair and Vice-Chair)
Substitute Members Permitted	Yes
Political Balance Rules Apply	Yes
Appointments / Removals	Annual appointment by Full Council
Restrictions on Membership	Cabinet Members may not be a member of this committee.
Restrictions on Chair	None
Quorum	One quarter (1/4) of the committee members rounded up
Number of Ordinary Meetings per Council Year	No less than 4
Working Groups	<ul style="list-style-type: none"> <li>• To be established and convened as and when required</li> <li>• Normally led by the Chair or Vice-Chair of the Committee</li> <li>• Membership between 3 and 9 Members drawn from across the Council but excluding Cabinet Members and any other Members with previous direct involvement in the matter</li> </ul>
Call-In Sub-Committee	<ul style="list-style-type: none"> <li>• Members - 5</li> <li>• Political Balance Rules apply</li> <li>• Normally led by the Chair or Vice-Chair of the Committee</li> <li>• Quorum - 3</li> <li>• Meetings as required</li> </ul>

## **Principles**

The PPI Committee is committed to the developing of a respectful relationship between itself, the Cabinet and external partners. The work of the PPI Committee its Working Groups and Call-In Sub-Committee is underpinned by the following 6 (six) principles:

1. To positively and proactively contribute to the effective delivery of the Council's aims and objectives, reflecting the vision and priorities of the Council, and ensuring accountability.
2. To develop a respectful relationship between the Committee, the Cabinet and external partners.
3. Enable purposeful, constructive and challenging performance review.
4. To be open to external outlook and input.
5. To consider cost effectiveness in the discharge of its functions.
6. To ensure that no individual Member may be involved in reviewing a decision or policy which they have had direct involvement with.

## **Remit and Terms of Reference**

This Committee is not a decision-making body. The exercise of the powers and functions set out below are delegated by the Full Council to the Committee in relation to development of policy as may be requested by the Cabinet, and review of performance and improvement including the Council's statutory functions relating to scrutiny:

### **General and Working Groups:**

1. To prepare and keep updated an annual work programme incorporating matters referred to the Committee by the Council, the Leader and Cabinet, by the Committee on its own initiative and by individual Members providing the criteria for inclusion in the work programme, as approved from time to time by Committee, is met.
2. To appoint Working Groups to assist with fulfilling the Committee's functions in relation to strategy and policy development, service and performance reviews and review of decisions in accordance with the requirements set out below:
  - (a) Each Working Group is to be time-limited appropriate to the scope and scale of the individual Working Group project.

- (b) There is to be no more than one Working Group relating to the work of a single service area at any point in time.
- (c) The Working Groups are unable to make decisions.

The Working Groups may comprise co-opted members from outside of the Council.

The Committee Chair, or in their absence the Vice-Chair, has delegated authority to appoint Working Groups where it would cause undue delay to wait for the next meeting of the Committee.

### **Policy Development**

1. To assist the Cabinet and the Council in the development of policy and the budget.
2. Review current policies and strategies and making recommendations to the Leader/Cabinet and Council.
3. Undertake in depth analysis of policy issues and options to assist the Leader/Cabinet in and the Council in the development of its budget and policy framework.
4. Consider matters referred to them by the Leader/Cabinet and reporting to the Leader/Cabinet with proposals and/or options.
5. Question members of the Cabinet and/or Committees and senior Officers from the Council about their views on issues and proposals affecting their areas of responsibility.
6. Review the Council's partnerships to ensure that community needs are being met and enhanced by collaborative working where appropriate.
7. Consider the impact of policies to assess their effectiveness.
8. Assessing the success of the Council's pilot exercises/projects
9. Such other matters as required by law or guidance to be the proper remit of the PPI Committee.

### **Scrutiny**

1. To review and scrutinise decisions made or proposed; the implementation or proposed implementation of policies or other actions taken or proposed in connection with the discharge of any function by

the Leader/Cabinet/Cabinet Member or Council Officers or the discharge of any non-executive function.

2. Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and delivery of services.
3. Question the Leader and all Cabinet Members and senior Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects.
4. Scrutinise the work of partnerships and partnership bodies in the local area.
5. Question and gather evidence from any person (with their consent where appropriate).
6. To make reports or recommendations to the Cabinet or Council as appropriate with respect to the discharge of any function, and to make reports or recommendations to partners as may be appropriate.
7. Convene a Call-In Sub-Committee to consider and determine a Call-In Notice and if necessary recommend that a decision made be reconsidered by the Cabinet or Council in accordance with the Call-In Procedure Rules at Part D of this Constitution.
8. To act as the Council's designated Crime and Disorder Committee under the Police and Justice Act 2006.
9. To undertake joint scrutiny of the Bassetlaw/Newark & Sherwood Community Safety Partnership with the appropriate overview and scrutiny committee of Bassetlaw District Council.
10. Facilitate the process by which Councillors can refer single ward issues to PPI Committee.
11. To fulfil all the functions conferred on the Council in relation to the scrutiny of health matters.
12. Report annually to Full Council on the discharge of its functions.
13. If the PPI Committee believes that a decision has been taken which:
  - (a) Was not publicised to ensure that appropriate notice was given of the decision; or
  - (b) Was the subject of the general exception procedure; or
  - (c) Was the subject of an agreement with the Chair of the PPI Committee, or the Chair of Council, or in their absence, the Vice-

Chair of the Council under the special urgency rule in Part D Section 6 of this Constitution or

- (d) Was taken during a major emergency in accordance with the major emergency rule in Part D Section 6 of this Constitution;

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies setting out the reasons for such urgency.

- 14. Such other matters as required by law or guidance to be the proper remit of the PPI Committee.

**7.2. AUDIT AND GOVERNANCE COMMITTEE**

**Rules**

- The Committee Procedure Rules and the Access to Information Procedure Rules shall apply to the Audit and Governance Committee and as applicable to its Sub-Committees.
- The business of the Sub-Committees shall also be conducted in accordance with the Council’s Arrangements for Dealing with Standards Complaints and associated Codes and Protocols.

**Membership, Chair and Quorum**

Number of Members	12 + 1 co-opted Independent Member (non-voting)
Substitute Members Permitted	No
Political Proportionality Rules Apply	Yes
Appointments / Removals	Resolution of full Council
Restrictions on Chair/Vice Chair	None
Quorum	One quarter (1/4) of the committee members rounded up
Number of Ordinary Meetings per Council Year	At least 4 per year (1 per quarter)
Standing Sub-Committee	<ul style="list-style-type: none"> <li>• None</li> <li>• Standards Complaint Hearing Panel convened as required</li> </ul>

**Purpose**

To provide those charged with Governance independent assurance on the adequacy of the risk management framework, the internal control environment and the integrity of the Council’s financial reporting and governance processes.

**Remit and Terms of Reference**

**Audit**

1. Oversee the Council’s financial reporting process.
2. Approve the Council’s Annual Statement of Accounts in accordance with the relevant prevailing legislation.
3. Receive and consider the reports, plans and opinions of the internal auditor; agreeing and monitoring the implementation of actions agree in respect of such reports, plans and opinions, and ensuring effective control within the assurance framework.

4. Receive and consider the reports and opinions of the external auditor and external inspection agencies; monitoring the implementation of actions agreed in respect of such reports and opinions.
5. Scrutiny of the Council's Treasury Management Strategy, Investments Strategy and Capital Strategy and the in-year monitoring of compliance with these.
6. Scrutiny of the Council's Medium Term Financial Plan, annual budget and in-year monitoring of these in the context of financial sustainability.
7. Act as an advisory committee to the Cabinet and Council on audit matters
8. Such other matters as required by law or guidance to be the proper remit of the Audit & Governance Committee.

### **Governance**

1. Assurance of the Council's governance, risk management framework and associated control environment and policies including the Council's Risk Register, Risk Management Strategy, 'whistle-blowing', surveillance, and anti-fraud and anti-corruption arrangements.
2. Overview of the Council's Constitution and consideration of proposed amendments or revisions to the Constitution including the Schemes of Delegation, Procedure Rules and Protocols.
3. Review any matters within the committees' remit and terms of reference referred to it by the Chief Executive, Section 151 Officer, Monitoring Officer or any Body of the Council.
4. Receive and review corporate complaints reports and Ombudsman reports except for those reserved to Full Council
5. Act as an advisory committee to the Cabinet and Council on governance matters
6. Such other matters as required by law or guidance to be the proper remit of the Audit & Governance Committee including electoral matters and parish council matters not reserved to Full Council or another body.
7. Ensure that the Council achieves value for money through all of its arrangements.

### **Standards**



1. Promote and maintain high standards of conduct by Members and Co-opted Members of the Council.
2. Overview of the Council's Members' Code of Conduct, Arrangements for Dealing with Standards Complaints and associated Protocols; recommendations as to the adoption of and/or amendments to the Code, Arrangements and associated Protocols.
3. Assist and advice Members and Co-opted Members of the Council and parish councils within the district of the Council on standards and compliance with the Code and associated Protocol including as regards members' interests, gifts and hospitality.
4. Make recommendations as to the appointment of Independent Persons.
5. Support and assist the Monitoring Officer in their discharge of the role as regards member standards, conduct and behaviour.
6. Act as an advisory committee to the Cabinet and Council on conduct matters
7. Convene a Standards Complaint Hearing Panel as may be required by the Monitoring Officer for the purpose of determining a standards complaint made against a Member or Co-opted Member of the Council or parish council in accordance with the Arrangements.

### **Standards Complaint Hearing Panel**

1. Shall be a Sub-Committee of the Audit & Governance Committee constituted as required by the Monitoring Officer.
2. Shall comprise 3 elected Members of the Audit and Governance Committee.
3. Shall be politically proportionate.
4. Shall hear and determine in accordance with the Arrangements as regards standards complaints referred to the Hearing Panel.

**7.3 PLANNING COMMITTEE**

**Rules**

- The Committee Procedure Rules and the Access to Information Procedure Rules shall apply to the Planning Committee.
- The Protocol for Planning Committee shall apply to the Planning Committee and shall take precedence in the event of their conflicting with the Committee Procedure Rules.

**Membership, Chair and Quorum**

Number of Members	15
Substitute Members Permitted	No
Political Proportionality Rules Apply	Yes
Appointments/Removals	Resolution of Full Council
Restrictions on Membership	<ul style="list-style-type: none"> <li>• All Members of the Planning Committee must have undertaken the required training, a minimum of once a year.</li> </ul>
Restrictions on Chair/Vice-Chair	None
Quorum	One quarter (1/4) of the committee members rounded up
Number of Ordinary Meetings per Council Year	At least 4 per year

**Remit and Terms of Reference**

1. To perform the duties and exercise the powers of the Council as the local planning authority.
2. To determine and advise on all planning and development management applications, including but not limited to:-
  - a. Planning obligations;
  - b. All matters concerning public path orders required as a result of planning legislation;
  - c. Advertisement consents;
  - d. Conservation area consents and notices;
  - e. Revocation or modification of planning permissions by order under planning legislation;
  - f. Enforcement action including in respect of advertisement contraventions;
  - g. Tree preservation orders;
  - h. Consent to carry out work to protected trees;
  - i. Listed building consents and notices;
  - j. Certificates of alternative development;
  - k. Direct action by execution of works, taking steps and/or carrying out operations, by or on behalf of the Council under any current planning legislation, including the recovery of any costs or expenses;

- l. Legal proceedings in respect of any breach of planning obligations;
    - m. Any other notices, orders, demands, permissions, consents and grants under current planning legislation; and
    - n. Observations, comments and representations on development proposals being determined by other bodies and/or in adjoining or nearby administrative areas.
3. To determine planning and development management applications referred by Members or Officers of the Council.
4. To determine planning and development management applications submitted by, or on behalf of, the Council or such applications in which the Council has an interest;
5. To determine planning and development management applications submitted by Members, Senior Officers (Senior Leadership Team and Business Managers) and Officers who would otherwise be involved in the determination of the application.
6. The monitoring of enforcement action taken under planning and other applicable legislation.
7. To administer the registration and record keeping provisions required under applicable legislation.
8. To exercise the Council's statutory duties in respect of the Building Regulations and associated legislation.
9. To exercise the Council's statutory powers in respect of land drainage and associated legislation.
10. To exercise the Council's statutory powers in respect of highways and associated legislation.
11. To consider and make recommendations on the formulation of the Local Development Framework and other plans, policies, protocols or guidance impacting on functions within the remit of the committee.
12. To do anything which is incidental, conducive or calculated to facilitate any of the Committee's functions or which are necessary for the discharge of the functions.
13. To adopt a scheme of delegation to Officers, including the ability for District Councillors to reserve matters to Committee in circumstances prescribed by the scheme; the scheme to be reviewed as necessary and at least annually, and
14. To adopt a Protocol for Planning Committee which must take Probity in Planning or equivalent national guidance into account and may include provision for public speaking.

**7.4 LICENSING COMMITTEE**

**Rules**

- The Committee Procedure Rules and the Access to Information Procedure Rules shall apply to the Licensing Committee and as applicable to its Sub-Committees.

**Membership, Chair and Quorum**

Number of Members	15
Substitute Members Permitted	No
Political Proportionality Rules Apply	Yes
Appointments/Removals	Resolution of full Council
Restrictions on Chair/Vice-Chair	None
Quorum	One quarter (1/4) of the committee members rounded up
Number of Ordinary meetings per Council Year	At least 4 per year (1 per quarter)
Standing Sub-Committee	Licensing Hearing Panel

**Remit and Terms of Reference**

1. To discharge those functions set out in the Licensing Act 2003.
2. To make recommendations to the Cabinet and Council insofar as it impacts on the role and remit of the Council.

**NOTE:**

There is no statutory requirement for the Licensing Committee to be politically balanced but the Council has resolved to apply political balance roles of the membership of the Committee.

The Licensing Committee has approved a scheme of delegation as follows:

<b>Matter to be Dealt with</b>	<b><u>Full Committee</u></b>	<b><u>Sub Committee</u></b>	<b><u>Officers</u></b>
Application for Personal licence		If a police objection	If no objection is made
Application for personal licence with unspent convictions			
Application for premises licence/club premises certificate	If a relevant representation is made that means the creation of a new Saturation Zone	If a relevant representation is made	If no relevant representation is made

Application for provisional statement	If a relevant representation is made that means the creation of a new Saturation Zone	If a relevant representation is made	If no relevant representation is made
Application to vary premises licence/club premises certificate	If a relevant representation is made that means the creation of a new Saturation Zone	If a relevant representation is made	If no relevant representation is made
Application to vary designated personal licence holder		If a police objection	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authority		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint or objection is irrelevant, frivolous, vexatious etc.			All cases
Decision to object when Local Authority is a consultee and not the lead authority		All cases	
Determination of a police representation to a temporary event notice		All cases	

The scheme of delegation will normally be adhered to but may be varied in exceptional circumstances and having regard to any relevant statutory requirements.

**7.5 GENERAL PURPOSES COMMITTEE**

**Rules**

- The Committee Procedure Rules and the Access to Information Procedure Rules shall apply to the General Purposes Committee and as applicable to its Sub-Committees.

**Membership, Chair and Quorum**

Number of Members	15
Substitute Members Permitted	No
Political Proportionality Rules Apply	Yes
Appointments / Removals	Resolution of full Council
Restrictions on Chair/Vice Chair	None
Quorum	One quarter (1/4) of the committee members rounded up
Number of Ordinary Meetings per Council Year	At least 4 per year (1 per quarter)
Standing Sub-Committee	<u>Hackney Carriage/Private Hire Vehicle Sub-Committee</u>  Five members (with a quorum of three) to be drawn from the membership of the General Purposes Committee.

**Remit and Terms of Reference**

1. All local authority licensing functions and ancillary matters other than those falling within the remit of the Licensing Committee including caravan sites, hackney carriage and private hire vehicle licences, drivers and operators, entertainments, betting, gaming and lotteries, theatres and cinemas
2. Commons regulation and town and village greens
3. Health and safety regulations (otherwise than as employer)
4. Contaminated land and statutory nuisances (excluding policy issues)
5. The passing of a resolution that schedule 2 to The Noise and Statutory Nuisance Act 1993 should apply in the authority's area
6. The power to apply for an enforcement order against unlawful works on registered common land under Section 41 of the Commons Act 2006.
7. The power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference under Section 45(2)(a) of the 2006 Act

(Section 45 re-enacted, with amendments, the more familiar Section 9 of the Commons Registration Act 1965 with effect from 1<sup>st</sup> October 2006).

8. The power to institute proceedings for offences in respect of unclaimed land under Section 45(2)(b) of the 2006 Act.
9. All matters relating to the consideration and granting of Sexual Entertainment Venues licences.
10. The power to make a closing order on a takeaway food shop (this function is delegated to Officers).
11. Making recommendations to the Council on the adoption of bylaws
12. Functions relating to parishes, elections and electoral registration
13. Functions relating to Polling Station reviews
14. Functions relating to Community Governance Reviews
15. Making recommendations to Council relating to the name and status of areas and individuals
16. Making recommendations to Council on the promotion or approval of local bill.
17. Making recommendations to the Council as to recommendations to the Secretary of State on district boundaries, ward boundaries, electoral divisions, wards or polling districts
18. To make recommendations to the Cabinet and to Council on the budget insofar as it impacts on the role and remit of the Committee.

**NOTE:**

Where an Officer has delegated authority to deal with any matter falling within the remit of this Committee, the matter will normally be dealt with by that Officer, exercising delegated powers, unless, in the opinion of that Officer, the matter is likely to give rise to significant controversy or the nature of the decision is such that, in his or her opinion, it should be referred to Committee for determination.

**7.5.1 Hackney Carriage/Private Hire Vehicle Sub-Committee**

**Remit and Terms of Reference**

To deal with all matters relating to Hackney Carriage/Private Hire Vehicle Licence applications and ancillary matters under the Local Government (Miscellaneous Provisions) Act 1976. The Sub-Committee shall have full delegated authority to carry out the same functions and have the same powers as the full committee in respect of those matters.



**7.6 APPOINTMENTS AND CONDITIONS OF SERVICE PANELS**

**Rules**

- The Committee Procedure Rules and the Access to Information Procedure Rules shall apply to the Panels. The Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) shall apply as necessary and shall take precedence in the event of their conflicting with the Committee Procedure Rules and / or the Access to Information Procedure Rules.

**Membership, Chair and Quorum**

Number of Members	<p><b>Chief Officer Appointments Panel</b> - the Leader, Deputy Leader, Leader of the main Opposition Group and such other Members taken from the whole membership of the Council</p> <p><b>Investigating and Disciplinary Panel</b> – 5 Members taken from the whole membership of the Council</p> <p><b>Appeals Panel</b> – 5 Members taken from the whole membership of the Council (3 where the appeal does not relate to a Chief Officer)</p> <p><b>Independent Panel</b> – minimum 2 Independent Persons</p>
Substitute Members Permitted	Not applicable
Political Proportionality Rules Apply	Yes Not applicable to Independent Panel
Appointments/Removals	<p>Chief Officer Appointments Panel - the Chief Executive in consultation with the Leader</p> <p>Disciplinary Matters and Appeals – the Chief Executive*</p> <p>Independent Panel - Resolution of Full Council</p>
Restrictions on Membership	<ul style="list-style-type: none"> <li>• Member Panels must include at least 1 Cabinet Member</li> <li>• the same Members shall not sit on both the Investigating and Disciplinary Panel and the Appeal Panel in relation to the same or related matters</li> </ul>
Restrictions on Chair/Vice- Chair	None
Quorum	Member Panels – 3 Independent Panel - 2
Number of Ordinary Meetings per Council Year	Not applicable – meetings convened as required

\*Delegated authority has been given to the Chief Executive (or his or her designated deputy) to appoint an Investigating and Disciplinary Panel and Chief Officer Appeal

Sub-Committee from the whole of the membership of the Council as necessary and appropriate in consultation with the Leaders of all political groups entitled to make appointments to the Sub-Committee and to appoint an Advisor to the Panel. In the event that it is necessary to convene an Investigating and Disciplinary Panel or Appeal Sub-Committee to consider any matter relating to the Head of Paid Service, the delegated authority shall not be exercisable by the Chief Executive but by their designated deputy or in his/her absence by any Chief Officer. In such a case, the Investigating and Disciplinary Panel shall have delegated authority to appoint an advisor who may be an officer of the authority or an external advisor.

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

The Appointments and Conditions of Service Panels shall be primarily responsible for:

1. To interview candidates for the Head of Paid Service and to recommend an appointment to the Council.
2. To interview and appoint Directors (Chief Officers).
3. To deal with disciplinary matters in relation to Statutory Officers (the Head of Paid Service, Monitoring Officer and Chief Finance Officer) and Chief Officers.
4. To determine appeals relating to disciplinary action against Chief Officers and appeals against sanctions imposed in relation to Statutory Officers falling short of dismissal. In the case of a recommendation to dismiss a Statutory Officer, such recommendation will be made directly to Council whose decision shall be final.
5. A Chief Officer Panel may also be convened, using the procedure for the Investigating and Disciplinary Panel, to determine pension and redundancy entitlements for Chief Officers. This function is normally delegated under the relevant HR policy to a Discretionary Payment Panel of Officers, with appeal to Head of Paid Service of Chief Officer. An alternative mechanism for appeals is accordingly required in respect of Chief Officers.

#### **7.6.1 Chief Officers Appointments Panel**

The appointment of the Head of Paid Service must be approved by the Council. The role and function of the Chief Officers Appointment Panel is to make Chief Officer appointments with the exception of the Head of Paid Service where their remit is to interview candidates for the Head of Paid Service and to recommend an appointment to the Council.

### **7.6.2 Investigating and Disciplinary Panel**

To deal with disciplinary matters in relation to Chief Officers and Statutory Officers where they are not Chief Officers as defined in the Constitution.

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

1. To determine whether, on receipt of the conclusion of any preliminary investigation, a detailed investigation should be carried out;
  2. To delegate to an investigating officer to be appointed by them responsibility for the conduct of that investigation;
  3. In respect of any matter relating to the Chief Executive and Head of Paid Service, where necessary and appropriate, to suspend the Chief Executive after it has conducted its initial assessment. In the event that it is necessary to suspend the Chief Executive prior to a meeting of the Investigating and Disciplinary Sub-Committee delegated authority to effect such suspension shall be exercisable by the Deputy Chief Executive or, in his or her absence, by any Chief Officer in consultation with the Leader and Deputy Leader;
  4. In the case of the suspension of any officer other than the Head of Paid Service, delegated authority shall be given to the Chief Executive/Head of Paid Service or their designated deputy to effect such suspension;
  5. To review the continued suspension of the Head of Paid Service at not more than two monthly intervals;
  6. To conduct a disciplinary hearing;
  7. At the conclusion of the disciplinary hearing to determine whether to:-
    - (a) take no further action
    - (b) exonerate the Chief Officer, or
    - (c) state their opinion as to whether (and if so the extent to which) the evidence they have obtained supports any allegation of misconduct against the Chief Officer.
    - (d) To determine appropriate disciplinary action which may include:-
      1. Recorded oral warning
      2. Written warning
      3. Suspension on half pay or no pay for a specified period
      4. Relegation (ie a reduction in salary) for a specified period
      5. An invitation to resign or accept retirement
      6. Dismissal with notice
- Note:** In the case of disciplinary action which may result in the dismissal of the Head of Paid Service, s151 Officer or Monitoring Officer, the Investigating and Disciplinary Panel has no delegated power to dismiss the relevant Officer but may only make a recommendation to Council regarding dismissal of the Officer subject to disciplinary proceedings.

Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal the Council must take into account any advice, views or recommendations of an Independent Panel, the conclusions of any investigation into the proposed dismissal and any representations from the relevant officer.

7. Dismissal without notice  
**Note:** See note above in relation to the proposed dismissal of the Head of Paid Service, S151 Officer or Monitoring Officer.
- (e) To determine alternatives including:
  1. Informal resolution or other appropriate procedures
  2. Early retirement
  3. Secondment
  4. Redeployment to a more junior post where there are issues relating to capability
- (f) To refer back to the Investigating Officer for further investigation and report;

### **7.6.3 Appeals Panel**

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

1. To determine appeals against the decisions of the Investigating and Disciplinary Panel relating to disciplinary action against Chief Officers and appeals against sanctions imposed by the Investigating and Disciplinary Panel relating to Statutory Officers falling short of dismissal. In the case of the Investigating and Disciplinary Panel making a recommendation to dismiss a Statutory Officer, such recommendation will be made directly to Council whose decision shall be final.
2. The decision of the Chief Officers Appeal Panel will be final. The Chief Officers Appeal Panel shall have the same powers, at the conclusion of the appeal hearing, as the Investigating and Disciplinary Panel as set out in their remit and their decision shall replace that of the Investigating and Disciplinary Panel, save that any appeal against a recommendation of the Investigating and Disciplinary Panel to dismiss a statutory officer shall not fall within the remit of the Chief Officers Appeal Panel but shall rest with the Council with the decision of Council being final.
3. To deal with any appeals relating to staffing matters to which there is a right of appeal to elected members (where there is no express right of appeal to members, there will be a presumption that any appeal will be to the appropriate officer).

#### **7.6.4 Independent Panel**

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

To offer the Council advice, views or recommendations on any proposal for the dismissal of a Statutory Officer.

1. The Panel, in so doing, will consider:
  - The recommendation of the Investigating and Disciplinary Sub-Committee and the reasons in support of that recommendation.
  - The report of the Independent Investigator.
  - Any oral and/or written representations from the Statutory Officer.
  
2. The Council must invite Independent Persons to be appointed to the panel in the following priority order:
  - (a) A relevant Independent Person who has been appointed by the authority and who is a local government elector;
  - (b) Any other relevant Independent Person who has been appointed by the authority;
  - (c) A relevant Independent Person who has been appointed by another authority or authorities
  
3. The Council must appoint the Panel at least 20 working days before the Council meeting at which any vote is taken on whether or not to approve the dismissal of a Statutory Officer.

**7.7 BOARD OF TRUSTEES OF THE GILSTRAP CHARITY W.E. KNIGHT TRUST**

**Rules**

- The Committee Procedure Rules and the Access to Information Procedure Rules shall apply to the Board.

**Membership, Chair and Quorum**

Number of Members	5 voting members Any Newark ward member, not appointed to the Committee as a voting member, is appointed as a co-opted non-voting member.
Substitute Members Permitted	No
Political Proportionality Rules Apply	Yes
Appointments / Removals	Resolution of full Council
Restrictions on Membership	Newark Ward Members, subject to political proportionality rules.
Restrictions on Chair/Vice-Chair	None
Quorum	One quarter (1/4) of the committee members rounded up
Number of Ordinary Meetings per Council Year	At least 4 per year (1 per quarter)
Co-Option	The Board may co-opt an independent member in an advisory capacity only

**Remit and Terms of Reference**

1. To act as trustee on behalf of the Council of the Gilstrap Charity and W E Knight Trust.
2. To receive the annual accounts of the above charities.
3. To make operational and strategic decisions relating to the above charities.

## **SECTION 2: THE CABINET AND EXECUTIVE FUNCTIONS**

### **1. The Leader and Deputy Leader of the Council**

#### **1.1 Appointment and Term of Office**

- 1.1.1 The Leader is elected by the Council and holds office for a four year period starting on the day of their election as Leader at an Annual Meeting of the Council, unless their term of office as a Councillor is shorter, in which case the term of office as Leader will be the same as their term of office as a Councillor.
- 1.1.2 The Leader's period of office will cease at an earlier date if they
- i. resign from the office; or
  - ii. are no longer a Councillor; or
  - iii. are removed from office by resolution of the Council.
- 1.1.3 If there is a vacancy in the position of Leader, the Council will elect a Leader at the first meeting following such vacancy.

#### **1.2 Functions of the Leader**

- 1.2.1 The Leader is responsible for those functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.
- 1.2.2 The Leader shall be responsible for producing and maintaining the Scheme of Cabinet Delegation set out in this Section of the Constitution detailing who will discharge functions.
- 1.2.3 Only the Leader will exercise the following functions and those functions reserved to them in the Cabinet Scheme of Delegation:-
- i. appointment of the Deputy Leader;
  - ii. appointment of the Cabinet; and the
  - iii. allocation of portfolio responsibilities
- 1.2.4 The Leader will chair any meetings of the Cabinet.

#### **1.3 The Deputy Leader**

- 1.3.1 The Deputy Leader will be a Councillor appointed to the position by the Leader.
- 1.3.2 The Deputy Leader will hold office until the end of the term of office of the Leader, or until:
- i. they are removed from office by decision of the Leader;
  - ii. they resign from the office; or
  - iii. they are no longer a councillor
- 1.3.3 If for any reason the Leader is unable to act, or the office of the Leader is vacant, the Deputy Leader must act and exercise all functions reserved to the Leader in their absence.

1.3.4 If for any reason the Leader and Deputy Leader are unable to act, or their offices are vacant, the remaining Cabinet Members may act collectively or appoint an interim Leader.

## **2. The Cabinet**

2.1 The Cabinet will discharge all Cabinet functions (Executive functions). These are the functions which are not the responsibility of the Council, a Committee any other part of the Council.

2.2 The Cabinet also discharges those 'local choice' functions set out in Schedule 2 of the Local Authorities (Functions and Responsibilities (England) Regulations 2000 (as amended).

2.3 The Cabinet comprises the Leader and Deputy Leader along with no more than nine other Councillors appointed to the Cabinet by the Leader.

2.4 The term of office of a Cabinet Member will be the same as for the Leader unless the Cabinet Member:-  
i. resigns from office; or  
ii. is no longer a Councillor; or  
iii. is removed from office, either individually or collectively, by decision of the Leader.

2.5 The portfolios of areas of responsibility of Cabinet Members (if any) for which they are delegated authority in accordance with the Cabinet Scheme of Delegation are allocated by the Leader.

2.6 The Cabinet is responsible for the preparation of the Council's Forward Plan and those functions reserved to it as set out in paragraph 5.4 below.

2.7 The Cabinet can establish executive committees, chaired by the relevant Portfolio Holder, to which the Cabinet can appoint non-voting advisory members; subject to the adoption by Cabinet of an executive committee protocol which all executive committees must adhere to.

2.8 The proceedings of the Cabinet, including those of any of its Sub-Committees, shall be accordance with the Cabinet Procedure Rules set out in in Part D Section 2 of this Constitution.

## **3. Cabinet Member Portfolio Holders and their Portfolios**

3.1 The Cabinet comprises eight portfolio holders including the Leader and Deputy Leader. The Leader of the Council's largest opposition group is a Cabinet Member with voting rights but without portfolio.

3.2 The eight portfolios are: -  
i. Strategy, Performance & Finance (held by the Leader)



- ii. Heritage, Culture and the Arts (held by the Deputy Leader)
- iii. Climate Change
- iv. Biodiversity and Environmental Services
- v. Sustainable Economic Development
- vi. Housing
- vii. Health, Wellbeing and Leisure
- viii. Public Protection and Community Relations

3.3 The functions which fall within the portfolios and for which the Leader has delegated responsibility and decision-making to the portfolio holders in accordance with the Cabinet Scheme of Delegation (below at paragraph 5) are set out below.

**Portfolio for Strategy, Performance & Finance**

- Development and implementation of the Council's Community Plan
- Representing the interests of the Council and the wider community on strategic partnerships such as the Economic Prosperity Committee, East Midlands Councils and East Midlands Combined Authority (once established)
- Budget strategy, budget setting and financial management
- Local taxation and housing benefits
- Assets/facilities management, including the Council's commercial property, compliance, acquisitions and disposals of Land, car parks and the Council's lorry park
- Commercialisation
- Internal and external communications and media relations
- Customer experience and insight
- Information and Communications Technology (ICT) including digitalisation
- Information Governance and Data Protection
- Building and maintaining positive relationships with and between elected Councillors and Officers

**Portfolio for Heritage, Culture and the Arts**

- Championing and promoting the arts, culture, and heritage
- Oversight of major projects relating to heritage and culture including membership of delivery boards where relevant
- Equality and diversity
- Maximising access to Newark and Sherwood's cultural and heritage facilities, with a particular focus on young people and specific communities
- Marketing and promotion of Newark and Sherwood as a visitor destination including Sherwood Forest
- Oversight of the Palace Theatre, National Civil War Centre & Newark Castle
- Arts development
- Developing opportunities to maximise the visitor offer linked to Sherwood Forest

### **Portfolio for Climate Change**

- Oversight of delivery of the Climate Change action plan
- Energy generation, energy management and tackling fuel poverty
- Waste collection and recycling
- Fleet management and maintenance
- Air Quality

### **Portfolio for Biodiversity and Environmental Services**

- Biodiversity and conservation
- Oversight of the Council's Tree Strategy, tree maintenance and tree planting programme
- Maintenance and enhancement of parks and open spaces, including oversight of the Council's Open Spaces Strategy
- Public engagement in relation to the natural environment
- Street cleansing
- Removal of graffiti and fly-tipping
- Land contamination

### **Portfolio for Sustainable Economic Development**

- Planning Policy, Development Management and building control
- Oversight of the Council's Local Development Framework and associated plans
- Business liaison and support
- Upskilling the local community and developing links with schools, further and higher education
- Inward investment and the creation of new employment opportunities
- Regeneration and development of town centres
- Oversight of the Town's Fund, Levelling Up, Shared and Rural Prosperity funding programmes
- Transportation and major infra-structure improvements
- Built heritage

### **Portfolio for Housing**

- Oversight of the Council's landlord functions, including housing repairs and investment, building safety, tenancy and estate management, planned maintenance and collecting rents and leasehold management
- Housing Strategy and oversight of the HRA Business Plan
- Rent and Service charge setting
- Council housebuilding
- Tenant engagement
- Provision of housing with care e.g., Gladstone House and The Broadleaves
- Housing Allocations and the Housing Register

- Homelessness and rough sleeping
- Oversight of Housing Revenue Account led regeneration schemes including Yorke Drive
- Protection of tenants in private housing sector e.g., HMO licensing
- Disabled Facilities Grants
- Empty properties
- Re-settlement

#### **Portfolio for Health, Wellbeing and Leisure**

- Tackling health inequalities and delivering health improvement through campaigns, programmes and targeted actions
- Lead member for Active4Today and Notts Health and Well-Being Board
- Sports provision and sports development, including playing pitch and facilities strategies
- Promoting and championing cycling and walking, and the development of plans to improve cycling and walking infrastructure
- Development and implementation of plans for future leisure centre provision

#### **Portfolio for Public Protection and Community Relations**

- Tackling crime and anti-social behaviour
- CCTV
- Environmental Health
- Enviro-crime prevention and enforcement
- Emergency planning, business continuity and risk management
- Health and Safety
- Safeguarding
- Cemeteries and Crematoria – see joint arrangements Part C Section 3
  - Liaison with the voluntary sector, parish and town councils and oversight of grant aid
  - Community events
  - Community Centres
  - Community Development and Community Engagement

3.4 The Leader of the Council's largest opposition group is a Cabinet Member with voting rights but without portfolio. Their role is to provide leadership in the constructive challenge of the Council's policies and strategies and in the co-ordination of alternative policies, strategies and service delivery. They are the main political spokesperson for the Council's opposition.

## **4. Responsibility for Functions**

### **4.1 Functions of the Cabinet (Executive Functions)**

4.1.1 The Cabinet exercises those exercises those functions which are not Non-Executive functions or otherwise reserved to the Council.

- 4.1.2 The Council has determined that the Cabinet shall exercise those 'local choice' functions set out in Schedule 2 of the Local Authorities (Functions & Responsibilities (England) Regulations 2000 (as amended).
- 4.1.3 Functions of the Cabinet may be discharged by the Cabinet as a whole, a Cabinet Committee, an individual Cabinet Member, and individual Officer or a joint committee in accordance with the Cabinet Scheme of Delegation or the Officer Scheme of Delegation respectively.

## **5. The Cabinet Scheme of Delegation**

### **5.1 Introduction**

- 5.1.1 The Leader is responsible overall for the discharge of Cabinet functions and may discharge any such function themselves regardless of whether the given function has been delegated.
- 5.1.2 The Leader has the power to delegate the discharge of Cabinet functions to:-
- i. The Cabinet as a whole
  - ii. A Committee of the Cabinet
  - iii. An individual Cabinet Member
  - iv. An individual Officer
  - v. A Joint Committee

### **5.2 Functions Delegated to Cabinet Members (Portfolio Holders)**

- 5.2.1 The Leader delegates to those Cabinet Members with portfolio the Cabinet functions which fall within their respective portfolio as set out at Part C Section 5 of this Constitution.
- 5.2.2 Cabinet Members with portfolio may take any decision in relation to their delegated functions including Key Decisions.
- 5.2.3 In the discharge of their delegated functions and decision-making in respect thereof Cabinet Members shall comply with:-
- i. Any reservations, limits or restrictions set by the Leader including particularly and without limitation those set out below which are reserved to the Leader or the Cabinet;
  - ii. The law;
  - iii. This constitution, including particularly and without limitation:-
    - a. The approved Budget and Policy Framework
    - b. The decision-making principles and Protocol for Individual Cabinet Member / Officer Decision-Making;
    - c. The Contract Procedure Rules
    - d. The Financial Procedure Rules
    - e. The advice of the Head of Paid Service, Monitoring Officer or the Chief Finance Officer

f. The Members’ Code of Conduct

- 5.2.4 Where an individual Cabinet Member is exercising their delegated powers, the Leader or the Cabinet as a whole may exercise that power where the Leader determines it appropriate to do so.
- 5.2.5 Where an individual Cabinet Member is making a decision under their delegated powers, they may refer that decision to the Leader or the Cabinet as a whole where they consider it appropriate to do so.
- 5.2.6 The portfolios and functions in respect of which the Cabinet Members with portfolio have been delegated authority are set out above.

**5.3 Delegation to Executive Shareholder Committee**

**Membership, Chair and Quorum**

Number of Members	As per the Cabinet
Substitute Members Permitted	No
Appointments	No non-voting advisory Members to be appointed, but representatives of Arkwood/Active4Today to be invited to present reports as appropriate.
Committee Governance	To operate in accordance with the Cabinet Procedure Rules as set out in Part D of the Constitution (these will enable the Committee to invite representatives of the two companies to address the committee and/or contribute to its discussion.
Restrictions on Chair/Vice- Chair	To be chaired by the Leader
Quorum	As per Cabinet Procedure Rules paragraph 2 set out in Part D of the Constitution
Number of Ordinary Meetings per Council Year	Meet approximately once a quarter or as required.

**Remit and Delegation (Terms of Reference)**

Executive Shareholder Committee is responsible for strategic oversight of the Council’s Development Companies (Active4Today Ltd and Arkwood Developments Ltd) including:

their performance, management of the relationship between the Council and the two companies, compliance with the Governance Agreements, “health check” of the two companies by the Council as sole shareholder, and specifically to:-

1. Recommend to Council the respective Articles of Association for consideration and approval.
2. Recommend to Council the respective Governance Agreements between the Council and the two companies for consideration and approval.

3. Agree the constitution for the two Boards of Directors and to approve the appointment of directors to the Boards, and to have the power to remove directors of the Board and approve best practice policies in relation to such appointments.
4. Receive, review and approve the companies' annual reports and business plans.
5. Review the performance of the two companies.
6. Determine, on behalf of the Council, in relation to Arkwood Developments, how it should exercise the functions flowing from its ownership of shares, including decisions on payment of dividends from the company's profit after taxation.

#### **5.4 Functions Reserved to the Leader**

The following functions are reserved to the Leader:-

- i. To lead on implementing the Council's policy and budget decisions
- ii. To provide leadership of the Council by setting the strategic direction and key priorities and overseeing the development of the financial strategies.
- iii. To represent the Council in the community and in negotiations with regional and national public service organisations
- iv. To be the lead spokesperson for the Council and deal with external relations with partners and other stakeholders.
- v. To take overall responsibility for the performance framework, including the monitoring of targets.
- vi. To lead and co-ordinate the Council's work on key cross-cutting policy areas such as equalities, sustainability and communications.
- vii. The appointment of a Deputy Leader
- viii. To appoint up to 9 Councillors to be Cabinet Members
- ix. To allocate to Cabinet Members areas of responsibility (portfolios)
- x. To provide leadership to the Cabinet and to chair Cabinet meetings
- xi. To ensure the efficient despatch of business consistent with the Council's policies and strategies.
- xii. To notify the Monitoring Officer of the allocation of responsibility so that the information can be published in the Constitution. The record of delegation of executive functions to Cabinet Members may be amended by the Leader at any time during the year, but written notice must be provided to the Monitoring Officer and the Cabinet Member, body or Committee concerned. The record of delegation must be reported to the Annual Meeting of Full Council and material amendments must be reported to the Full Council.
- xiii. To take responsibility for Cabinet or portfolio functions in the absence of a Cabinet or individual Cabinet Member.
- xiv. To reserve to themselves or the Cabinet as a whole the determination of an executive decision or the taking of a particular course of action pertaining to a Cabinet function.
- xv. To reserve to individual Cabinet Members or the Cabinet as a whole the determination of consultation responses and the launch of consultation exercises on behalf of the Council, except for day-to-day technical and

operational consultations which amount to Administrative Decisions made by Officers.

### **5.5 Functions Reserved to the Cabinet**

Decisions in respect of the following shall be taken by the Cabinet as a whole:

- i. Any decisions which in the opinion of the Leader should be determined by Cabinet;
- ii. Proposing the Budget and Policy Framework and Capital Programme to the Council;
- iii. Approving the Risk Management Strategies and Policies and reviewing the effectiveness of Risk Management Arrangements;
- iv. Approval to the carry forward of underspends as required by the Council's Financial Regulations;
- v. Approval of in year budget reallocations above the limit stipulated by the Council's Financial Regulations;
- vi. Reallocation of capital budgets which do not exceed the overall capital programme;
- vii. Authorising the write-off of bad or doubtful debts above the amount specified as delegated to the Section 151 Officer in the Scheme of Delegation to Officers;
- viii. Approval of Fees and Charges as part of the Budget process and any in-year changes unless statutorily prescribed.

### **5.6 Conflicts of Interest**

- 5.6.1 Where the Leader has a conflict of interest they must ensure that they do not influence the decision to be taken and that the decision is taken by a Cabinet Member who does not have such a conflict of interest.
- 5.6.2 If every Cabinet Member has a conflict of interest, consideration must be given to delegating the decision to the Chief Executive, appropriate Director or Senior Officer, or to seeking a dispensation to taking the decision - dispensations are not available for single member decision making.
- 5.6.3 Where a decision is being taken regarding a service which is commissioned by a Cabinet Member from an external service provider, Cabinet Members must be mindful of potential conflicts of interest arising if they also sit on the Board or are otherwise involved in the governance of the external provider. In such circumstances Cabinet Members should seek advice from the Monitoring Officer before agreeing to sit on such a Board or governance structure.
- 5.6.4 If the performance of an executive function has been delegated to an individual Cabinet Member or Officer and a conflict of interest arises, in the first instance the executive function will be performed by the person or body by whom the delegation was made.

## **SECTION 3: JOINT ARRANGEMENTS**

### **1. Joint Arrangements and Contracting-Out**

#### **1.1 Joint Arrangements**

- 1.1.1 The Council or the Leader (in respect of an Executive function), may:
- i. enter into arrangements or agreements with any person or body;
  - ii. co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
  - iii. exercise on behalf of that person or body any functions of that person or body.
- 1.1.2 Details of any joint arrangements including any delegations to Joint Committees are set out in this Section Constitution.

#### **1.2 Joint Arrangements for Non-Executive Functions**

- 1.2.1 The Council may establish joint arrangements with one or more local authorities to exercise functions which are not Executive functions in any of the participating authorities, or advise the Council.
- 1.2.2 Such arrangements may involve the appointment of a Joint Committee with these other local authorities.

#### **1.3 Joint Arrangements for Executive Functions**

- 1.3.1 The Leader may establish joint arrangements with one or more local authorities to exercise functions which are Executive functions
- 1.3.2 Such arrangements may involve the appointment of Joint Committees with these other local authorities
- 1.3.3 If the functions to be discharged involve Key Decisions the legal requirements for determining and publicising Key Decisions will apply.
- 1.3.4 Except as set out below, the Leader may only appoint Cabinet Members to a Joint Committee and those Members need not reflect the political composition of the Council as a whole.
- 1.3.5 The Leader may appoint Members to a Joint Committee from outside the Cabinet in the following circumstances:
- i. the Joint Committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Leader may appoint to the joint Committee any Councillor who is a Member for a Ward which is wholly or partly contained within the area;



- ii. the Joint Committee is between Nottinghamshire County Council and Newark & Sherwood District Council and relates to functions of the Leader of Nottinghamshire County Council. In such cases, the Leader may appoint to the Joint Committee any Councillor who is a Member for an electoral division which is wholly or partly contained within the area.

1.3.6 In the cases of (i) and (ii) above the political balance requirements do not apply to such appointments.

#### **1.4 Joint Arrangements and Access to Information**

1.4.1 The Council's Access to Information Procedure Rules at Part B Section 4 of this Constitution apply.

1.4.2 If all the Members of a Joint Committee are Members of the Cabinet / Executive of each of the participating authorities then the access to information regime will be the same as that applied to the Cabinet.

1.4.3 If the Joint Committee contains Members who are not Members of the Cabinet / Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

#### **1.5 Delegation to and from other Local Authorities**

1.5.1 The Council may delegate non-Executive and/or local choice functions to another local authority or, in certain circumstances, the Leader of another local authority

1.5.2 The Leader may delegate Executive functions to the Executive of another local authority in certain circumstances.

1.5.3 The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council (non-Executive functions) and the Leader (Executive functions).

#### **1.6 Contracting Out**

1.6.1 The Council (in respect of Non-Executive functions) and the Leader (in respect of Executive functions) may contract out to another body or organisation functions which may be exercised by an Officer and which are subject to an Order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making.

1.6.2 Where Executive or Non-Executive functions are contracted out, the Cabinet or the Council as applicable retains ultimate responsibility for the function.

1.6.3 Every contract entered into must comply with the Council’s Contract Procedure Rules and Financial Regulations set out at Part D of this Constitution.

**2.0 Joint Arrangements With Other Authorities**

The Council, jointly with other authorities, operates the joint arrangements set out below.

**2.1 City of Nottingham and Nottinghamshire Economic Prosperity Committee**

A joint committee established to bring together local authority partners in Nottingham and Nottinghamshire in a robust, formally constituted arrangement which will drive future investment in growth and jobs in the City and County. The functions delegated to this Committee are set out in its Constitution:

<https://committee.nottinghamcity.gov.uk/ieListMeetings.aspx?Committeeld=416>

**2.2 Mansfield and District Crematorium Joint Committee**

A joint committee established for the provision, running, maintenance and management of the Mansfield and District Crematorium. The agreement is set out below.

**MANSFIELD AND DISTRICT CREMATORIUM JOINT COMMITTEE**

**(amendments to this agreement are pending in principle approval at a meeting of the Joint Committee on 23 May 2022 prior to being adopted by the Council under Part C Section 2 of the Council’s Constitution – the Cabinet and Executive Functions)**

**AGREEMENT RELATING TO JOINT MANAGEMENT ARRANGEMENTS  
FOR MANSFIELD & DISTRICT CREMATORIUM**

**BETWEEN**

**MANSFIELD DISTRICT COUNCIL**

**-and-**

**ASHFIELD DISTRICT COUNCIL**

**-and-**

**NEWARK & SHERWOOD DISTRICT COUNCIL**

This **DEED OF AGREEMENT** is made the **xx** day of **xxxxxxx 2022**

**BETWEEN**

- (i) **Mansfield District Council of Civic Centre, Chesterfield Road South, Mansfield, Nottinghamshire NG19 7BH (“Mansfield”) and**

- (ii) **Ashfield District Council of Council Offices, Urban Road, Kirkby in Ashfield, Nottinghamshire NG17 8DA (“Ashfield”)** and
- (iii) **Newark and Sherwood District Council of Castle House Great North Road Newark NG24 1BY (“Newark and Sherwood”)**

**WHEREAS:**

1. The authorities to this Deed have by their Executives or by virtue of Section 102 (1) of the Local Government Act 1972 the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2000, now superseded by The Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2012 and all and every power enabling them agreed and resolved to constitute a Joint Committee to exercise the powers which each of the Authorities hereto might respectively have exercised by virtue of the Cremation Acts 1902 and 1952 for the provision, running, maintenance and management of the existing Crematorium (“the Crematorium”) at Derby Road, Mansfield, Nottinghamshire NG18 5BJ which is more particularly described in paragraph 1 below and on 3 July 2002 entered into a Joint Management Agreement (‘the 2002 Agreement’).
2. The 2002 Agreement and a subsequent Agreements on 27 July 2012 and 11 November 2013 (“the 2013 Agreement”) superseded an agreement entered into by the said Authorities or their predecessor authorities dated 4<sup>th</sup> April 1955 (the Prior Agreement).
3. The parties now wish to revise the terms of the 2013 Agreement to reflect Newark and Sherwood District Council’s change in governance arrangements to Executive Arrangements with effect from 17 May 2022 and have entered into a Revised Agreement accordingly.

**NOW in pursuance of the said Agreement and in consideration of these presents THIS DEED WITNESSES as follows:**

**1.0 Definitions and Interpretation**

- 1.1 In this Agreement, the following expressions shall have the meaning set out below unless the context otherwise requires:

“Authority”	means either Mansfield, Ashfield or Newark and Sherwood and “Authorities” shall be construed accordingly;
“Annual Meeting”	means the annual meeting of the Joint Committee held each year in accordance with Paragraph 7.2 of this Agreement;
“Chief Executive”	means the Head of an Authority’s Paid Service being the person designated as

“Clerk”	such under Section 4 of the Local Government and Housing Act 1989; means the person appointed by virtue of Paragraph 17.1 to carry out certain duties allocated by this Agreement;
“Commencement Date”	the 17 May 2022
“Council”	the Council of elected members of the Authorities to this Agreement;
“Crematorium”	the crematorium known as the Mansfield and District Crematorium, which includes all buildings, grounds, equipment and all other property appurtenant thereto;
“Crematorium Site”	means the land shown edged red on the plan annexed situate at Derby Road, Mansfield, Nottinghamshire;
“Executive”	the form of Executive created and operated by each Authority in accordance with Sections 10 and 11 of the Local Government Act 2000;
“Financial Year”	the period running from 1 April in one calendar year until 31 March in the next calendar year (inclusive);
“Joint Committee”	the Mansfield and District Crematorium Joint Committee constituted by this Agreement;
“Member”	unless the context otherwise so requires a member of the Joint Committee;
“Ordinary Meeting”	any meeting of the Joint Committee that is not an annual meeting or a special meeting;
“Special Meeting”	a meeting of the Joint Committee convened in accordance with Paragraph 7.6 of this Agreement.

- 1.2 Words importing one gender include all other genders and words importing the singular include the plural and vice versa.
- 1.3 The clause, paragraph and schedule headings do not form part of this Agreement and should not be taken into account in its construction or interpretation.
- 1.4 References to Statutes, sections of Statutes or Statutory Instruments shall include any statutory modifications or re-enactment thereof from time to time and for the time being enforced.

## 2.0 **Duration of Joint Committee**

The Authorities shall constitute the Joint Committee from the Commencement Date and the Joint Committee shall continue thereafter unless and until determined under the provisions contained in this Agreement. If one of the constituent authorities gives notice of their intention to withdraw from the arrangements, the Joint Committee

may continue to operate with the two remaining constituent authorities and this Agreement shall be amended accordingly.

3.0 **Name of Joint Committee**

The Joint Committee shall be known as the Mansfield and District Crematorium Joint Committee.

4.0 **Provision and Location of Crematorium**

4.1 The Crematorium is located on the Crematorium Site which site was acquired by Mansfield District Council on behalf of the predecessor Authorities to those which are party to this Agreement.

4.2 The Crematorium Site is now vested in Mansfield by virtue of S120(4) of the Local Government Act 1972.

4.3 Mansfield acknowledges that it holds the Crematorium Site on behalf of the constituent authorities. It further acknowledges that in the event of the Crematorium Site being sold to a third party, the assets shall be apportioned between the Authorities in accordance with a formula to be agreed between them. In the absence of agreement being reached between the parties as to the formula to be applied, regard shall be given to the original capital contributions of the predecessor Authorities and to contributions to revenue deficits and contributions to capital made by the three Authorities and by their predecessor Authorities. In the event of the three Authorities failing to reach agreement, having had regard to such historic data, an arbitrator shall be appointed to determine the due apportionment, the arbitrator to be nominated by the external auditors for the time being of the Joint Committee.

5.0 **Membership**

5.1 The Joint Committee shall consist of members appointed by the Authorities as follows:

5.1.1 The Authorities shall each appoint three executive members to the Joint Committee

5.1.2 Subject to the provisions of this Agreement each Member shall continue in office for a period of one year or until such time as he shall cease to be an executive member of the Council by whom he is appointed whichever is the sooner and any provision in the constitutions of any of the Authorities to the contrary is hereby waived.

5.1.3 If any Authority does not appoint the number of members which it is entitled to appoint, the other members of the Joint Committee shall be competent to carry out the business thereof pursuant to this Agreement.

5.1.4 Any person who is a member of the Councils of more than one Authority shall only represent the first Authority to appoint him as a

member and any subsequent appointment by another Authority shall be void.

- 5.2 The Chief Executive of each Authority shall notify the Clerk within 14 days of any appointment of a member of his Council to the Joint Committee.
- 5.3 Any member may at any time resign his office as such member by notice addressed to the Clerk who should forthwith notify the respective Chief Executives of each of the Authorities.
- 5.4 Any member may be removed at any time by resolution by the Executive of the Authority by whom he was appointed, but such removal should only become effective upon receipt by the Clerk of notification thereof.

6.0 **Chair and Vice-Chair**

- 6.1 At the first meeting of the Joint Committee and subsequently at its Annual Meeting in each successive year, the Joint Committee shall select one of its members as Chair and another as Vice-Chair for the forthcoming year provided that at no time should the Chair and Vice-Chair be members of the same Authority.
- 6.2 The offices of Chair and Vice-Chair shall, in successive years, rotate between the three constituent authorities.
- 6.3 The elected Chair and Vice-Chair shall remain in office until the next Annual Meeting unless by reason of death, resignation, disqualification or any other cause before that time and, upon a vacancy occurring within the term of office, another member from the same Authority shall be appointed by the Joint Committee to fill the vacancy until the next Annual Meeting. Disqualification shall, in the case of Mansfield and Ashfield District Councils, include ceasing to hold office as an executive member of the appointing Authority.
- 6.4 If there is equality of votes for the appointment of Chair or Vice-Chair, then the Chair for the time being of that meeting shall have a casting vote.

7.0 **Meetings of the Joint Committee**

- 7.1 The Joint Committee shall hold an Annual Meeting which will normally be before the end of June in each year.
- 7.2 Other than the Annual Meeting, meetings shall be held at such places and on such dates and at such times as the Joint Committee may decide from time to time save that meetings shall be held not less than quarterly.

- 7.3 Ordinary meetings and Annual Meetings of the Joint Committee shall be convened by the Clerk who shall deliver notice thereof to each member and observer at least five clear days before the date of the meeting (provided that failure to serve such notice on any member shall not affect the validity of the meeting).
- 7.4 With the notice referred to in Paragraph 7.3 the Clerk shall send a copy of the agenda for the meeting which shall include:
- 7.4.1 Provision for the declaration of disclosable pecuniary interests by members and observers;
  - 7.4.2 All items of business which have been, or are deemed to have been, referred to the Joint Committee by a Scrutiny Committee, the Cabinet an ordinary committee (in the case of Newark and Sherwood District Council) or a Council Resolution of any Authority;
  - 7.4.3 All reports submitted by any officer of any of the Authorities; and
  - 7.4.5 Any item of business directed to be included by the person appointed to preside at the meeting.
- 7.5 A quorum of three members must be present to constitute a meeting provided that there is at least one member present from each Authority.
- 7.6 The Chair and two or more members of the Joint Committee may at any time by notice specifying the business to be transacted and sent to the Clerk require a Special Meeting of the Joint Committee to be convened and the Clerk shall accordingly convene a Special Meeting which will be held within 21 clear days of receipt by the Clerk of the said notice.
- 7.7 The Clerk shall give members of the Joint Committee at least five clear days notice of the Special Meeting and such notice shall specify the business that is proposed to be transacted.
- 7.8 No business shall be transacted at a Special Meeting other than that specified in the notice sent to the Clerk and referred to in Paragraph 7.6 above.
- 8.0 **Persons Presiding at Meetings**
- 8.1 The Chair, or in his absence, the Vice-Chair shall preside at every meeting provided that if both the Chair and Vice-Chair are absent, the members present shall elect another member of the Joint Committee who shall preside at that meeting.

**9.0 Voting**

9.1 Every question at a meeting of the Joint Committee shall be decided by a majority vote of those members present and voting and in the case of an equality vote the person presiding at the meeting shall have a second and casting vote.

9.2 Except where a requisition is made under paragraph 9.3, the method of voting at meetings of the Joint Committee shall be by show of hands.

9.3 If requisition for a recorded vote is made by not less than three members present before a vote is taken on any question or motion, the voting shall be recorded so as to show whether each member present voted for or against that question or motion or abstained from voting.

9.4 Where, immediately after a vote is taken, any member present so requires, there shall be recorded in the minutes whether the person cast his vote for the question or against the question or whether he abstained from voting

**10.0 Veto**

10.1 Any member of the Joint Committee shall have a right of veto in respect of any decision of the Joint Committee

10.2 Such veto must be exercised prior to close of the meeting at which the matter is considered and shall provide that a decision is deferred on that matter until the next available meeting of the Joint Committee.

10.3 The right of veto shall not be exercisable where the majority of members of the Joint Committee present and voting resolve that the matter in question requires an urgent decision.

10.4 The right of veto may only be exercised once in respect of any matter.

**11.0 Minutes**

11.1 The Clerk shall be responsible for keeping a record of attendance and a record of business transacted at every meeting of the Joint Committee and the Minute Book shall be submitted to and signed at the next following meeting.

11.2 The person presiding at the next following meeting and referred to in Paragraph 11.1 shall put the question that the minutes be approved as a correct record of the previous meeting.



11.3 No discussion shall take place upon the minutes, except upon their accuracy. If no question is raised as to accuracy or, if it is raised then as soon as it is disposed of, the person presiding shall sign the minutes.

11.4 Copies of the minutes of every meeting of the Joint Committee and any Sub-Committee thereof shall as soon as possible after each meeting and in any event within five working days be sent by the Clerk to the Chief Executive of each Authority and a copy of the minutes will be submitted to the appropriate scrutiny committee of the Authority for consideration at the next meeting thereof, subject to proper notice in accordance with that Authority's rules of procedure.

11.5 If any matter or decision arising from the minutes of the Joint Committee is referred by a scrutiny committee of to the Joint Committee, it shall be reconsidered in the light of the scrutiny committee's reference and reasons by the Joint Committee at the next Joint Committee meeting of which proper notice of the matter can be given and the Joint Committee's decision after such reconsideration shall be final.

12.0 **Sub-Committees**

12.1 The Joint Committee may from time to time appoint Sub-Committees for any general or special purpose in connection with their powers and functions. Any Sub-Committees so appointed shall consist only of members but should include at least one member from each Authority.

12.2 The Joint Committee shall at the time of appointing any Sub-Committee determine the terms of reference of that Sub-Committee.

13.0 **Vacancies**

13.1 No act or proceeding of the Committee shall be questioned on account of any vacancy or on account of any defect in the appointment of any member.

14.0 **Capital Expenditure**

14.1 If the Joint Committee shall at any time require to incur capital expenditure for:

14.1.1 the acquisition of property;

14.1.2 the construction of works;

14.1.3 any other capital purposes in connection with its powers

then (unless the Joint Committee shall in their discretion decide to defray such expenditure out of revenue surpluses) the express approval of each of the Authorities to such capital expenditure shall be required. In the event of the request for additional capital funding being approved by each of the Authorities, the Authorities shall contribute to that capital expenditure in accordance with a formula to be calculated according to the throughput of cremations emanating from each of the Authorities for the relevant financial year, (“the Formula”) unless the Authorities shall jointly determine that a different formula be applied. For the purposes of the calculations, any cremations emanating from outside the areas of the three constituent authorities shall be disregarded.

14.2 The Joint Committee shall, from time to time, pay the amounts of all interest and all instalments of principal and other payments that become due under any loan raised pursuant to Paragraph 14.1 above.

14.3 The Authorities expressly give delegated authority to the Joint Committee to determine the capital programme provided that the cost of funding the same can be met from revenue surpluses and any accrued repairs and renewals fund.

15.0 **Revenue Expenditure**

15.1 All expenses of a revenue nature incurred by the Joint Committee in any financial year shall be borne in accordance with the same Formula to be applied to capital expenditure, namely according to the throughput of cremations emanating from each of the respective Authorities for the relevant financial year as set out in paragraph 14.1.3.

15.2 The Joint Committee may use or carry forward part or all of any profit or surplus made in any financial year for the purposes of:

15.2.1 Paying debts

15.2.2 Meeting contingencies

15.2.3 Meeting future expenses

15.2.4 Funding any capital works in accordance with clause 14.3, but any amount of such profit or surplus not so applied shall be returned to the Authorities according to the formula set out in paragraph 14.1.3 namely the throughput of cremations emanating from each of the constituent Authorities for the relevant financial year. In calculating the respective share to be distributed to each of the Authorities any cremations from outside the areas of the three constituent Authorities shall be disregarded.

15.3 Revenue surpluses shall be applied in the first instance towards funding the capital programme from time to time agreed by the Joint Committee in accordance with clause 14.3. However, the Authorities shall be entitled to elect to take their share of the revenue surplus provided that they provide the equivalent amount by way of capital contribution towards the agreed capital programme.

15.4 In the event of a revenue deficit, this shall be met by the constituent Authorities in accordance with the Formula set out in paragraph 14.1.3 for the relevant financial year.

16.0 **Interest on Sums Due**

16.1 Any sum properly payable by any of the Authorities to the Joint Committee whether of a capital or revenue nature, which is not paid by the due date shall be liable to interest at the base lending rate of Mansfield's bankers until such time as the sum due is paid in full.

17.0 **Apportionment of Assets and Liabilities**

17.1 If one or more of the constituent authorities give notice under clause 21 that they wish to withdraw from the joint management arrangements, they shall be entitled, on such withdrawal, to receive an appropriate apportionment of assets or shall be required to pay an appropriate apportionment of the liabilities of the Crematorium on the basis of a formula calculated with reference to the number of cremations as a percentage of total within area cremations (i.e. excluding out of area cremations entirely from the calculation) over the 15 year period immediately preceding the effective date of such withdrawal as follows:

X = Number of cremations taking place within each district area for the preceding 15 years

Y = Total number of cremations taking place within the total of the constituent district areas (excluding out of area cremations)

$\frac{X}{Y} \times 100 = \% \text{ for each authority } \times \text{ value of assets or liabilities.}$

17.2 In such event, the authority or authorities giving notice of their intention to withdraw shall be required to meet any costs directly arising as a result of such withdrawal including any professional fees incurred.

17.3 In the event of a sale or disposal of the Crematorium to a third party or in the event of it ceasing to operate for any other reason, the formula to be applied for the distribution of assets and liabilities shall be calculated according to the number of cremations emanating from each district as a percentage of the total within area cremations (i.e. excluding out of area cremations from the calculations) over the 25 year period immediately preceding the disposal or closure as the case may be as follows:

X = Number of cremations taking place with each district area for the preceding 25 years

Y = Total number of cremations taking place within the total of the constituent district areas (excluding out of area cremations)

$\frac{X}{Y} \times 100 = \% \text{ for each authority } \times \text{ value of assets or liabilities.}$

17.4 The Joint Committee shall make appropriate arrangements for a valuation of the Joint Committee's assets and liabilities to be carried out on a 5 yearly basis.

18.0 **Appointment of Officers**

18.1 Those persons currently holding office as Clerk and Treasurer pursuant to the 2013 Agreement shall continue to hold office by virtue of this Agreement. Should those officers resign or otherwise cease to hold office the Joint Committee shall appoint to those offices, provided that any person so appointed shall be an employee of one of the Authorities and shall cease to hold office on terminating such employment.

18.2 The Joint Committee shall appoint and pay such employees as it deems necessary to provide, equip, maintain and manage the Crematorium and also duties ancillary thereto required to be provided by virtue of this Agreement or by Statute. Such employees shall be employed by Mansfield District Council on the Joint Committee's behalf on the terms and conditions of employment which apply to employees of Mansfield District Council and shall be enabled to join any pension scheme which employees of Mansfield are entitled to join by virtue of their individual Contracts of Employment. Matters relating to staff are delegated to Mansfield District Council's Head of Paid Service.

18.3 Employees of Mansfield District Council have delegated authority to take all operational, managerial and professional decisions in respect of the provision and management of the Crematorium and ancillary duties. Any decisions of strategic significance or that are potentially contentious will be escalated in accordance with the Authority's Constitution. Consultation with the Chair and Vice-Chair of the Joint Committee will be undertaken as appropriate.

18.4 Some decisions are reserved to the Joint Committee: approving the annual capital and revenue budgets, setting fees and charges and approving the Annual Statement of Accounts and the Statement of Internal Control.

19.0 **Accounts**

19.1 The Treasurer shall keep accounts of all monies received by and all expenditure of the Joint Committee as may be required for the purposes of Part 8 of the Local Government Act 1972.

19.2 As soon as practicable after the end of the financial year the Joint Committee shall send to each Authority a full report of the operations of the Joint Committee during the last financial year and a copy of the accounts thereof.

19.3 Mansfield will arrange for an annual audit of the accounts to be carried out and the Joint Committee shall provide a copy of the report thereof to each of the Authorities as soon as practically possible after receipt of the same.

20.0 **Performance of Agreement**

20.1 The Authorities shall at all times take all or any action as may be necessary for giving full effect to this Agreement and every provision and obligation contained herein and any decision made by the Joint Committee pursuant hereto.

20.2 Each Authority shall bear its own costs for the negotiation, preparation, completion and stamping of this Agreement and any amended agreement be approved by the three constituent authorities.

20.3 If any Authority shall fail to carry out any necessary act required to be taken pursuant to Paragraph 20.1 and 20.2 above, the others may implement any reasonable measures necessary to effect this Agreement or any proper decision of the Joint Committee and the reasonable costs thereof shall be recoverable as a debt from the Authority which so failed to act.

21.0 **Withdrawal from the Agreement or Termination of the Agreement**

21.1 If any of the Authorities wish to withdraw from this Agreement they shall be required to give not less than twenty-four months notice to expire on 31 March in any year.

21.2 Termination of the Agreement in its entirety shall only be effected by agreement of all the parties at the relevant time. If one party gives notice of their intention to withdraw from the Agreement, the remaining parties shall continue to operate under the terms of this Agreement (subject to any consequential amendments) unless they shall otherwise determine.

21.3 In the event of one of the authorities giving notice of their intention to withdraw from the Agreement, the provisions as to apportionment of assets and liabilities and payment of costs as set out in clauses 17.1 and 17.2 ante shall apply.

21.4 If any of the authorities wishes to make any major alterations to the terms of this Agreement, then in default of agreement between the authorities, this shall be referred to arbitration in accordance with paragraph 22 below.

21.5 In the event of the parties jointly agreeing to terminate this Agreement, the apportionment of assets and liabilities shall be in accordance with clause 17.3 ante.

**22.0 Arbitration**

22.1 Any dispute between the Authorities and or arising out of this Agreement shall be referred to a single arbitrator to be agreed upon by the Authorities or in default of the Agreement to be nominated by the Secretary of State for the Environment, Transport and the Regions or such other Government Minister who shall be appropriate in accordance with and subject to the provisions of the Arbitrations Act 1996 or any statutory modification or re-enactment for the time being in force.

**23.0 Complaints**

23.1 Any complaints received by the Joint Committee or any of the Authorities relating to the Crematorium or any officer employed thereat or as to the performance of functions under this Agreement whether made through an Authority's complaints procedure or received via the Local Government Parliamentary Ombudsman shall be dealt with by the Clerk.

**24.0 Notices**

24.1 Notices under this Agreement shall be in writing and except where otherwise specified herein shall be delivered or despatched by first class post to the principal office of the Authority by whom the Clerk is employed as the case may be or sent by email to the Clerk at the address specified by them. Notice given by first class post is deemed to be given and received three days after it is despatched. Notice given by email is deemed to be given at the time of transmission, or if this time falls outside a working day, when the next working day resumes.

25.0 **General**

25.1 The Contracts Act (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

**EXECUTED** by the Authorities as a Deed the day and year first before written

**SEALED AS A DEED** by  
**MANSFIELD DISTRICT COUNCIL**  
in the presence of:

**SEALED AS A DEED** by  
**ASHFIELD DISTRICT COUNCIL**  
in the presence of:

**SEALED AS A DEED** by  
**NEWARK AND SHERWOOD DISTRICT COUNCIL**  
in the presence of:

**SECTION 4: OTHER BODIES**

**1. Tenant Engagement Board**

The membership of Tenant Engagement Board includes Council Tenants and is an important way for the Council to engage with residents. Its terms of reference are included in the Public Engagement section of this Constitution.

**2. The Planning Policy Board**

**Rules**

- The Planning Policy Board is an advisory body and has no decision-making authority.
- The Committee Procedure Rules and The Access to Information Procedure Rules are not applicable.

**Membership, Chair and Quorum**

Number of Members	7
Substitute Members Permitted	No
Political Proportionality Rules Apply	No
Appointments / Removals	The relevant committees will make appointments annually
Restrictions on Membership	The Planning Policy Board shall comprise:- <ul style="list-style-type: none"> <li>• Portfolio Holder for Sustainable Economic Development</li> <li>• 3 Members from the membership of the Council appointed by the PPI Committee</li> <li>• 3 Members of the Planning Committee including the Chair and Vice-Chair</li> </ul>
Restrictions on Chair/Vice-Chair	Portfolio Holder for Sustainable Economic Development
Quorum	3
Number of Ordinary Meetings per Council Year	At least 4 per year

**Remit and Terms of Reference**

1. To act in an advisory capacity to the Portfolio Holder for Sustainable Economic Development and Officers in the preparation, publication and submission of the Council's Development Plan. The Development Plan is made up of Development Plan Documents, these can be a single document known as the Local Plan or a number of documents covering particular locations of subject areas.
2. To oversee the preparation of the Development Plan including development targets, allocations of land for new development, planning policies for the determination of planning applications and the planning policies map which



details where such land allocations and planning policies apply within the District of Newark & Sherwood.

3. To provide strategic overview of the production of those documents which will comprise the Development Plan.
4. To provide strategic overview of the production of those documents which will support the production and implementation of the Development Plan.
5. At the discretion of the Chair, Members of the Council who are not members of the Planning Policy Board may be invited to its meetings and / or consulted on matters pertaining to the Development Plan which may affect their Wards.

## **SECTION 5: OFFICER SCHEME OF DELEGATION**

### **1. Officers**

- 1.1 The Council's employees are called 'Officers' and they give advice, implement decisions and carry out the day-to-day delivery of the Council's services.
- 1.2 Some Officers such as the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (also known as the Section 151 Officer) have specific duties to undertake. These Officers are the Council's 'Statutory Officers' and they ensure that the Council acts within the law and uses its resources wisely.
- 1.3 Officers are delegated decision-making authority in accordance with the Officer Scheme of Delegation which is set out below.
- 1.4 Officers must comply with the Employee Code of Conduct which is set out in Part G of this Constitution.
- 1.5 The recruitment, selection and dismissal of Officers will always comply with the Officer Employment Procedure Rules set out in Part G of this Constitution.
- 1.6 Officers are paid in accordance with the Council's Pay Policy.
- 1.7 The Council's management structure is set out in Part A of this Constitution – Summary & Introduction.

### **2. The Officer Scheme of Delegation**

#### **2.1 Introduction**

- 2.1.1 This Officer Scheme of Delegation (the Scheme) has been adopted by the Council and sets out the extent to which the powers and duties of the Council are delegated to Officers under the Local Government Act 1972, the Local Government Act 2000 (as amended) and all other powers enabling the delegation of Executive and Non-Executive functions to Officers.
- 2.1.2 The Officer Scheme of Delegation is intended to provide a streamlined, clear and simple decision-making process and empower Officers to carry out their functions and deliver the Council's services within the Budget and Policy Framework set by the Council, and subject to the guidelines set by the Council, the Cabinet and the Council's management team. The Scheme should be interpreted widely to enable the smooth and effective operation of the Council.
- 2.1.3 All references to legislation shall be deemed to include any subsequent amendments to such legislation.

- 2.1.4 Under section 101 of the Local Government Act 1972 the Council may authorise an Officer to commission and monitor work for and on behalf of the Council by people who are not Officers of the Council. Such people will be bound by this Scheme, and the obligations contained in it, at all times when engaged on Council business.
- 2.1.5 In this Scheme references to powers and functions of ‘the Council’ include the powers and functions of the Cabinet (Executive).
- 2.1.6 The delegations under this Scheme are intended to be cumulative. Each delegation may be read on its own unless it is specifically expressed to be subject to another.
- 2.1.7 Where an Officer has delegated powers, the Council or the Cabinet or a Committee (as appropriate) can still exercise that power in a particular case if it considers it appropriate to do so. Equally it is always open to an Officer not to exercise delegated powers but to refer the matter up as appropriate.

## **2.2 Limitations**

- 2.2.1 Any exercise of delegated powers under this Scheme is subject to the overriding requirements, restrictions and exceptions as set out below.

## **2.3 Consultation and Liaison**

- 2.3.1 When exercising delegated powers Officers must consult as appropriate, give due regard to any advice received and keep Councillors and relevant other Officers properly informed of actions arising within the scope of the delegation exercised.
- 2.3.2 Officers must liaise closely with the Cabinet/Portfolio Holder in respect of Executive functions and the Chair of the relevant Committee in respect of Non-Executive functions which fall within the remit of that Committee.
- 2.3.3 Officers must ensure Ward Councillors are consulted or advised of the exercise of delegated powers relevant to their area where appropriate.
- 2.3.4 Officers must ensure that the Chief Executive (Head of Paid Service) Director - Resources (Section 151 Officer) and the Assistant Director - Legal & Democratic Services (Monitoring Officer) are consulted and advised of any decisions as necessary.

## **2.4 Using a Delegation**

- 2.4.1 Before exercising any delegated power, Officers must consider whether to consult with the relevant Portfolio Holder or Committee Chair on the exercise of the delegated powers, or not to exercise delegated power and instead refer the matter to the relevant Councillor or Council Body to decide.

2.4.2 The Leader or any Cabinet Member may at any time, following consultation with the Chief Executive and relevant Officer, require a particular issue or any aspect of delegated powers to be referred to the appropriate Council Body for a decision.

2.4.3 This does not limit the general requirements set out elsewhere in the Constitution to consult with relevant Ward Councillors, Committee Chairmen and interested groups in reaching decisions.

## **2.5 Functions Which Are Not Delegated**

2.5.1 This Scheme does not delegate to Officers:-

- i. any matter reserved to Full Council;
- ii. any matter which by law may not be delegated to an Officer;
- iii. any Key Decision;
- iv. any matter expressly withdrawn from delegation by the Council, Committees, Leader or Cabinet.

## **2.6 Restrictions**

2.6.1 Any exercise of delegated powers is subject to:

- i. any statutory restrictions;
- ii. the budget and policy framework;
- iii. any provision of this Constitution including the Procedure Rules;
- iv. any financial limits set out in the revenue or capital budgets except as set out in the Financial Procedure Rules;
- v. any policy set by the Council or its Committees, the Cabinet, the Leader or Chief Executive;
- vi. the Employee Code of Conduct;
- vii. the exceptions set out below at paragraph 15.

## **2.7 Transfer of Functions**

2.7.1 Where the name of a post is changed, or its relevant functions become vested in a different post, any delegated powers possessed by the post shall be retained by the renamed post or transferred to the different post as the case may be. This includes any delegated powers vested in a post by resolution of the Council, the Cabinet, or a Committee / Sub Committee.

2.7.2 In the event of a restructure the Chief Executive shall have authority to re-allocate the delegated powers to other posts and shall give notice of this to the Assistant Director Legal & Democratic Services. Any use of this delegated power must be reported to the Council and / or to the Cabinet as soon as practicable.

**3. General Delegation of Powers**

- 3.1 This Scheme delegates to the Council's Chief Executive and Chief Officers (Directors\*) all executive and non-executive powers and duties relevant and to their areas of responsibility as set out in the table below at paragraph 14, and as may be assigned from time to time, that rest with the Council or which have been delegated or granted to the Council, subject to the restrictions, requirements and exceptions set out below. This includes all powers and duties under all legislation present and future relating to a Director's area of responsibility and all powers and duties incidental and conducive to that legislation and the discharge of their functions including, but not limited to, those detailed in this Scheme.

\*Includes the Assistant Director - Legal & Democratic Services

**4. Powers in Relation to Staff**

- 4.1 Any action in accordance with the Council's agreed policies and procedures with respect to the recruitment, appointment, promotion, training, grading, discipline, determination of wages and salary scales, determination of allowances, determination and application of conditions of service, including but not limited to allocation of leave, honorariums, ill health retirement and determination of establishment except as detailed in the Staff and Employment Exceptions Chart below at paragraph 15.

**5. Powers in Relation to Contracts and Property**

- 5.1 Powers in relation to contracts and property agreements to negotiate, put out to tender, bid, submit tenders, vary, terminate, dispute, extend and renew and in relation to contracts to buy and sell and appoint specialist advisors and consultants and in relation to property to acquire, dispose of, let and licence subject to the Contract Procedure Rules and Financial Regulations and the Council's Acquisitions and Disposals Policy.
- 5.2 In respect of any development of land and buildings which is proposed to be carried out for the purposes of statutory functions within the sphere of his/her responsibility to authorise an application for planning permission to the Planning Committee, and once such permission has been received, to authorise the carrying out of such development in accordance with the terms and conditions of such permission.

**6. Powers in Relation to Finance**

- 6.1 Powers to incur capital and revenue expenditure, to seek recovery of amounts owed, to exercise discretion in recovery, alter or waive repayment periods, or approve exemptions in relation to repayments, agree refunds, reduce or remit payments and waive fines, subject to the requirements of the Financial Procedure Rules or the Legal Exceptions Chart.

**7. Powers in Relation to Equipment**

- 7.1 Purchase of vehicles, plant and equipment for which expenditure has been approved subject to any policy for standardisation (but if the purchase involves a leasing arrangement this must be made by the Section 151 Officer).
- 7.2 Hire of plant subject to inclusion of cost of hire within approved estimates.
- 7.3 Disposal of surplus plant, equipment and materials

**8. Powers in Relation to Legal Action**

- 8.1 In consultation with the Assistant Director - Legal & Democratic Services as appropriate, take any steps to implement a decision of the Council, Cabinet or any Committee.
- 8.2 In consultation with, and subject to the agreement of, the Assistant Director - Legal & Democratic Services as appropriate, authority to appear, institute proceedings, prosecute, defend, negotiate a settlement and take any steps necessary in any proceedings on behalf of the Council. This must be in consultation with other Officers as necessary and subject to the requirements of the Financial Regulations in relation to risk management and insurance. Any agreement to settle proceedings would generally be within parameters which had first been agreed informally by relevant Members. Limitations on authority to delegate these powers are set out in the Planning and Legal Exemptions Chart below.
- 8.3 Exclude people from Council premises where they consider it necessary in the interests of health and safety or the maintenance of order.
- 8.4 In consultation with the Assistant Director - Legal & Democratic Services as appropriate, powers to authorise, appoint or nominate named Officers according to their individual training and experience, with reference to guidance and industry best practice and without limitation to:-
- investigate, prosecute, enforce, lay summons
  - require individuals to disclose information,
  - serve requisitions for information;
  - publish information;
  - make applications to court (including for warrants);
  - sign, issue, serve, vary, revoke and publish notices, including fixed penalty notices, and serve documents;
  - make, suspend, or vary prohibition notices or prohibition orders;
  - issue temporary exemption notices;
  - take emergency remedial action;
  - carry out works in default;
  - issue certificates, consents, permits, licenses;
  - refuse, vary, suspend or revoke licences or licensing applications;
  - obtain, introduce, operate, amend, extend, vary and revoke orders;
  - impose conditions;

- introduce and maintain registers;
- without force, exercise powers of entry and / or seizure;
- vary or revoke and in relation to land relevant to service functions, to note applications for licences, planning, consents and approvals, a declaration; and grant, vary, revoke and attach conditions to consents and charge property except as detailed in the Legal Exceptions Chart.

8.5 Authorisation must be in writing.

8.6 Chief Officers may authorise named persons, whether employed by the Council or not, to act on behalf of the Council to exercise these powers.

## **9. Powers in Relation to Documents**

9.1 Affix the Common Seal of the Council to any document. This includes affixing a seal by electronic means where permitted subject to any process established by the Legal Service. It also includes the signing of any document as an authorised signatory on behalf of the Council where this is required and no other authority to sign the document exists. This includes signing by electronic means where permitted subject to obtain advice from the Legal Business Unit.

9.2 To sign on behalf of the Council any document necessary to give effect to any resolution of the Council, Committees or sub-committees and/or Officers acting under delegated powers. This includes signing by electronic means where permitted subject to obtain advice from the Legal Business Unit.

9.3 The Contract Procedure Rules contain separate provisions regarding the signing of contracts.

## **10. Powers in Relation to Ombudsman Matters**

10.1 To agree local settlements in consultation with the relevant Cabinet Member where they consider it in the interests of the Council to do so.

10.2 To agree remedies in accordance with any policy adopted by the Council in relation to complaints and maladministration.

## **11. Delegation of Specific Powers**

### **11.1 The Chief Executive**

11.1.1 The Chief Executive is the Council's **Head of Paid Service** and as such is responsible for all staffing matters which can be summarised as:

- i. The manner in which the discharge by the Council of its different functions is co-ordinated.
- ii. The number of grades of staff required by the authority for the discharge of its functions.
- iii. The organisation of the authority's staff.
- iv. The appointment, dismissal and proper management of the authority's staff, other than in relation to Chief Officers.

- 11.1.2 This authority includes but is not limited to:
- i. to alter the areas of responsibility of the Directors set out in the areas of responsibility table below;
  - ii. to make arrangements for the appointment of Chief Officer roles and to make appointments to Deputy Chief Officer roles;
  - iii. to agree the Human Resources Policies following relevant consultation;
  - iv. to make any changes necessary to the Employee Code of Conduct following relevant consultation;
  - v. In consultation with other appropriate Chief Officers, to settle employee and industrial relations matters, including issues involving the application or rates of pay, conditions of service or other staffing benefits etc.;
  - vi. to make any agreements with other local authorities for placing staff at the disposal of those other local authorities;
  - vii. to appoint any individual to any office other than an office in which he is employed by the Council;
- 11.1.3 The Chief Executive is the Council's **Returning Officer** in relation to elections and has all Proper Officer powers as set out in Section 26 Proper Officer Designations and Functions.
- 11.1.4 The Chief Executive may give such directions as they may consider necessary:
- i. to secure the efficient management and execution of the Council's functions;
  - ii. to secure co-ordination of advice and forward planning of objectives and services;
  - iii. to secure a corporate approach to the affairs of the Council generally;
  - iv. to achieve the efficient and effective implementation of the Council's strategies and policies and the effective deployment of the Council's resources towards those ends;
  - v. to maintain good internal and external relations;
  - vi. to determine the allocation of office accommodation.
- 11.1.5 The Chief Executive may carry out the powers and duties of the Deputy Chief Executive and the Directors in their absence or in consultation with them and in addition to the powers detailed above, or in their capacity as a designated Proper Officer and without limitation, has following additional powers:-
- 11.1.6 To carry out the powers and duties of any of Officers in their absence or in consultation with them;
- 11.1.7 To incur expenditure in the event of a civil emergency; to take all such action as considered appropriate in any emergency (as defined by the Chief Executive) including making or approving any necessary and urgent arrangements within the powers of the Council for the protection of persons or property in any civil or other emergency;



11.1.8 In cases of urgency to take any decision which could be taken by the Council, the Cabinet or a Committee, in consultation with the Leader or relevant Committee Chair, the Section 151 Officer and the Monitoring Officer as set out in the provisions for Urgent Decisions in Part C Section 10 of this Constitution;

11.1.9 To be Proper Officer for all Proper Officer functions.

## **11.2 The Chief Finance Officer/Section 151 Officer**

11.2.1 In addition to any powers detailed above or in their capacity as a designated Proper Officer and without limitation, the Chief Finance Officer has delegated authority to carry out those responsibilities set out as delegated to them in the Financial Procedure Rules set out at Part E of this Constitution.

11.2.2 The Section 151 Officer has authority to write-off any outstanding amount owed to the Council up to the limit of £20,000 in respect of each debt, or to an unlimited amount in respect of any debt where the debtor is in liquidation or has been declared bankrupt.

11.2.3 The nominated Deputy to the Section 151 Officer is entitled to act in their absence.

## **11.3 The Monitoring Officer (Assistant Director - Legal & Democratic Services)**

11.3.1 In addition to any powers delegated as detailed above or in their capacity as a designated Proper Officer and without limitation, the Monitoring Officer has delegated authority to:-

- i. to certify resolutions and documents as being true copies;
- ii. grant dispensations to councillors in accordance with the Localism Act 2011 with the power to refer any request for a dispensation back to the Audit & Governance Committee Purposes;
- iii. undertake an initial assessment of Member Code of Conduct complaints and determine any further in consultation with an Independent Person;
- iv. convene a Standards Hearing Sub-Committee;
- v. determine the validity of a Call-In Notice in consultation with the Head of Paid Service and Chief Finance Officer where appropriate;
- vi. convene a Call-In Sub-Committee;
- vii. make minor amendments to this Constitution which are required to remove inconsistency or ambiguity, reflect legislative changes or are required to give effect to any decision of the Council or its Committees;
- viii. to certify Council records for the purposes of admitting the document in evidence in civil or criminal proceedings.

11.3.2 The nominated Deputy to the Monitoring Officer is entitled to act in their absence.

## **12. Officer Sub-Delegation**

- 12.1 Any delegation to a Statutory Officer, Proper Officer, Chief Officer (Director) or other Officer includes authority for any further sub-delegation of powers within their area of responsibility (including cross-service delegation where appropriate). This should normally be in writing. Where a decision relates to the functions of Section 151 Officer or Monitoring Officer, their designated deputy shall be entitled to act in their absence.
- 12.2 Officers shall sub-delegate and devolve powers for service delivery and management to Officers who represent the nearest practicable point of delivery to the service user.

**13. Decision-Making, Records and Publicity**

- 13.1 Officers must make, record and publish decisions made under delegated authority in compliance with the Access to Information Regulations 2012 (executive decisions), Openness of Local Government Bodies Regulations 2014 (non-executive decisions), and in accordance with principles of decision-making and Protocol for Individual Member / Officer Decision-Making set out at Part C Introduction and Part H Section 1.
- 13.2 In accordance with Part C Section 10 of this Constitution ‘Decision-making and types of decisions’ there is no requirement to keep a written record of operational administrative decisions taken within the approval budget and policy framework.

**14. Chief Officer/Director Areas of Responsibility**

- 14.1 The below table details the non-exhaustive main areas of responsibility of the Chief Officers/Directors.

<b>Post</b>	<b>Main Areas of Responsibility</b>
Deputy Chief Executive & Director - Resources	<ul style="list-style-type: none"> <li>• To act as Head of Paid Service/Deputy Chief Executive in the absence of the Chief Executive</li> <li>• Financial Services</li> <li>• Corporate Property</li> <li>• ICT &amp; Digital Services</li> <li>• Revenue &amp; Benefits</li> <li>• Designated Proper Officer for functions within areas of responsibility</li> <li>• Chief Finance Officer/Section 151 Officer</li> </ul>
Director - Housing, Health & Wellbeing	<ul style="list-style-type: none"> <li>• Housing Estates &amp; Management</li> <li>• Housing Income &amp; Leaseholder Management</li> <li>• Housing Maintenance &amp; Asset Management</li> <li>• Housing Strategy &amp; Development</li> </ul>

	<ul style="list-style-type: none"> <li>• Housing Options &amp; Community Relations</li> <li>• Designated Proper Officer for functions within areas of responsibility</li> </ul>
Director - Communities & Environment	<ul style="list-style-type: none"> <li>• Environmental Services</li> <li>• Public Protection</li> <li>• Heritage &amp; Culture</li> <li>• Designated Proper Officer for functions within areas of responsibility</li> </ul>
Director - Customer Services & Organisational Development	<ul style="list-style-type: none"> <li>• HR &amp; Training</li> <li>• Administrative Services</li> <li>• Customer Services</li> <li>• Communications</li> <li>• Transformation</li> <li>• Designated Proper Officer for functions within areas of responsibility</li> </ul>
Director - Planning & Growth	<ul style="list-style-type: none"> <li>• Economic Growth &amp; Visitor Economy</li> <li>• Planning Development (including development management)</li> <li>• Planning Policy</li> <li>• Building Control</li> <li>• Street Naming and Numbering</li> <li>• Designated Proper Officer for functions within areas of responsibility</li> </ul>
Assistant Director - Legal & Democratic Services	<ul style="list-style-type: none"> <li>• Law &amp; Information Governance</li> <li>• Elections &amp; Democratic Services</li> <li>• Designated Proper Officer for functions within areas of responsibility</li> <li>• Monitoring Officer</li> </ul>

**15. Exceptions**

15.1 As applicable, the exercise of delegated authority under the Scheme is subject to the following:-

- i. Contract Exceptions – refer to the Contract Procedure Rules;
- ii. Financial Exceptions – refer to the Financial Procedure Rules;
- iii. Planning & Legal Exceptions – refer to the Planning & Legal Exceptions Chart below at paragraph 15.1.1;
- iv. Employment Exceptions – refer to the Officer Employment Procedure Rules.

**15.1.1 Planning & Legal Exceptions Chart**

- i. The planning and legal functions detailed in the Planning & Legal Exceptions Chart are not to be discharged by Officers under the Scheme.
- ii. The planning and legal functions detailed below must be discharged by an Officer, Committee or the Cabinet as indicated in the Chart.

<b>Function</b>	<b>Reserved to (Council/Cabinet/Committee/ Specific Officer)</b>
<p><b>Planning</b> Determination of outline, full or reserved matters and planning/ development management applications in relation to applications referred by:-</p> <ul style="list-style-type: none"> <li>• Councillors</li> <li>• Officers</li> </ul>	Planning Committee
<p><b>Planning</b> Determination of outline, full or reserved matters and planning / development management applications in relation to applications submitted by, or on behalf of:-</p> <ul style="list-style-type: none"> <li>• the Council*</li> <li>• a Councillor</li> <li>• a Chief Officer / Director</li> <li>• Officers of the Senior Leadership Team</li> <li>• Business Managers</li> <li>• Officers who would otherwise be involved in the determination of the application</li> </ul>	Planning Committee
<p><b>Planning</b> Determination of outline, full or reserved matters and planning/development management applications in relation to applications in which the Council has an interest*</p>	Planning Committee
<p><b>Legal</b> Sealing Documents</p>	Chief Executive and Directors Deputy Monitoring Officer
<p><b>Legal</b> Authority to negotiate a settlement</p>	Directors, generally within parameters which have first been agreed informally by relevant Members

\*Except where such applications pertain to the HRA housing development programme or the HRA housing stock.

**15.1.2 Staff & Employment Exceptions Chart**

In accordance with the Local Government and Housing Act 1989 and the Local Authority (Standing Orders) (England) Regulations 2001:-

- i. The staff and employment functions detailed in the Staff & Employment Exceptions Chart are not to be discharged by Officers under the Scheme.
- ii. The functions detailed below must be discharged as indicated in the Chart.

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- iii. In respect of functions not listed below Officers must comply with the delegations set out in the relevant employment procedures adopted by the Council.

Function	Chief Officer Panel	Council Decision
Appointment of Head of Service	Yes	Yes
Appointment of Corporate Directors (Chief Officers)	Yes	No
Disciplinary and Dismissal Proceedings in relation to Chief Officers	Yes	No
Dismissal Proceedings in relation to Head of Paid Service, Section 151 Officer and Monitoring Officer	Yes	Yes
The Council's powers and duties as an employer under the Health & Safety at Work etc. Act 1974	Head of Paid Service	No
The issuing of 'certificates of opinion' as to whether or not the duties of a post are within the criteria of 'political sensitive'	Relevant Director in consultation with the Customer Services & Organisational Development and the Monitoring Officer	No

### 16. Proper Officer Designations and Functions

- 16.1 There are a number Acts which require certain functions to be undertaken by the "Proper Officer" of the Council. Where an Act does not specify that the Proper Officer shall be a "Statutory Officer", the Proper Officer shall be the Director with responsibility for the function or subject matter in question, or in the alternative, their authorised deputy or an Officer duly authorised to act in the name of the Director concerned. The Chief Executive may also discharge all Proper Officer functions.
- 16.2 The Council's Statutory Officers are:-
- The Head of Paid Service (the Chief Executive)
  - The Monitoring Officer (the Assistant Director Legal and Democratic Services)
  - The Chief Finance Officer / S151 Officer (Director of Resources)
- 16.3 The below is a non-exhaustive list of the main functions in respect of which a Statutory Officer is the designated Proper Officer (unless otherwise specified).

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[Local Government Act 1972](#)

<b>Section of the Act</b>	<b>Duty or function involving appointment of an Officer of the Council</b>	<b>The Proper Officer for the functions referred to</b>
13(3)	The Officer to act as a Parish Trustee with the Chair of a parish meeting	Chief Executive
39	The Registration Officer for any constituency or part of a constituency coterminous with or contained in the district	Chief Executive
41(1)	The Returning Officer for the elections of councillors of the district and of councillors of parishes or committees within the district	Chief Executive
83	Declaration of acceptance of office by chair, vice-chair or councillor of the district	Chief Executive
84	Receipt of written notice of resignation of office by person elected to that office	Chief Executive
88(2)	Convening of meeting of Council to fill casual vacancy in office of Chair of the Council	Chief Executive
89(1)(b)	Receipt of a notice in writing given by two local government electors for the district of a casual vacancy occurring in the office of councillor	Chief Executive
96(1) & (2)	The Officer to whom a Member of the Council shall give written notice of interests in contracts	Chief Executive
100B(7)(c)	Supply of documents to press	Assistant Director - Legal & Democratic Services
100C(2)	Written summary of exempt proceedings	Assistant Director - Legal & Democratic Services
100D(1)(a)	Compilation of list of and inspection of background papers	Assistant Director - Legal & Democratic Services
100F(2)	Exclusion of document containing exempt information	Assistant Director - Legal & Democratic Services
115(2)	Receipt of money due from Officers	Director - Resources
138	Emergency / disaster powers	Chief Executive
146(1)(a) and (b)	Declarations and certificates with regard to securities	Director - Resources

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151	Arrangements for proper administration of Council's financial affairs	Director - Resources
191(2)	Functions with respect to ordnance survey	Director - Planning & Growth
204(3)	Receipt of notice of application for justices' licence under Schedule 2 Licensing Act 1964	Chief Executive
210	Charity functions of predecessor authorities transferred to the Council	Chief Executive
212	The Officer to act as local registrar for local land charges	Director - Planning & Growth
223(1)	Appearance of Council in legal proceedings	Assistant Director - Legal & Democratic Services
225(1)	Deposit of documents	Assistant Director - Legal & Democratic Services
228(3)	Accounts to be open to inspection	Director - Resources
229(5)	Certification of photographic copies of documents	Assistant Director - Legal & Democratic Services
234(1) and (2)	The Officer to sign any such notice, order or other document which the Council are authorised or required by or under any enactment to give, make or issue	Chief Executive
236(9)(10)	To send copies of byelaws to Parish Councils	Assistant Director - Legal & Democratic Services
238	Certification of byelaws	Assistant Director - Legal & Democratic Services
248(2)	Keeping of Roll of Freeman	Assistant Director - Legal & Democratic Services
Schedule 6 Para 1	The Officer capable of deputizing for the registration Officer for carrying out his registration duties	Assistant Director - Legal & Democratic Services
Schedule 12 para 3(2), 4(2)(b)	Signature of summons to council Meeting	Chief Executive

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Schedule 12 para 4(3)	Receipt of notices regarding address to which summons to meeting is to be sent	Chief Executive
Schedule 14, para 13	Taking action under s152(1), s157, s158(1), and s163(1) of the Public Health Act 1936	Director - Communities & Environment
Schedule 14 para 15	s162(1) of the Public Health Act 1936	Director - Communities & Environment
Schedule 14 para 25(7)	The Officer to certify in writing a true copy of resolution of the Council applying or disapplying provisions of the Public Health Acts 1875-1924	Director - Communities & Environment
Schedule 14 para 38(1)(2)	Issuing of written certificates for the purposes of ss38(1) and (2) of the Public Health Acts 1875-1924	The Registered medical practitioner appointed by the Council for the purpose
Schedule 14 para 47(1)(2)	Issuing of written certificates for the purposes of the Health Services and Public Health Act 1968 Section (1) and (2)	The Registered medical practitioner appointed by the Council for the purpose
Schedule 16 para 28	The Officer to receive on deposit lists of buildings of special architectural or historic interest	Director - Planning & Growth
Schedule 22	The Officer for the purposes of s166(1) and (2) of the Housing Act 1957	Director - Communities & Environment Director – Housing, Health & Wellbeing
Schedule 29 para 4(1)(a) and (c)	The Officer referred to as the Clerk of a Council or the Town Clerk of a Borough in any enactment 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 and in any local statutory provisions	Chief Executive

### Representation of the People Act 1983

All	All Proper Officer functions	Chief Executive Deputy Chief Executive
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### Local Government Finance Act 1988

All	All Proper Officer / Chief Finance Officer functions	Director - Resources
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## Local Government and Housing Act 1989

2(4)	Deposit of list of politically restricted posts	Assistant Director - Legal & Democratic Services
3A	Officer responsible for grant and supervision of exemptions from political restriction	Assistant Director - Legal & Democratic Services
4	Head of Paid Service	Chief Executive
5	Monitoring Officer	Assistant Director - Legal & Democratic Services
15-17	Receipt of various notices relating to political groups under relevant Regulations	Chief Executive
19(1), (4)	Receipt of notice of direct and indirect pecuniary interests.	Assistant Director Legal & Democratic Services

## Local Government Act 2000

The Officer to receive written notice from the Leader of the removal from the Cabinet of an individual Cabinet Member	Assistant Director - Legal & Democratic Services
The Officer to call in a decision for scrutiny by the Scrutiny Committee in accordance with the Scrutiny Procedure Rules	Assistant Director - Legal & Democratic Services
The Officer to receive reasonable notice that the Cabinet is to meet to make a decision	Assistant Director - Legal & Democratic Services
The Officer to ensure that an item requires by a Cabinet Member is placed on the agenda for the next available meeting of the Cabinet	Assistant Director - Legal & Democratic Services
The Office to ensure that an item requested by the Scrutiny Committee or by Council is placed on the agenda for the next available meeting of the Cabinet	Assistant Director - Legal & Democratic Services
The Officer to call a meeting of the Cabinet requested by the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer in pursuance of their statutory duty	Assistant Director - Legal & Democratic Services
The Office responsible for the recording and publicising of decisions made at private meetings of the Cabinet	Assistant Director - Legal & Democratic Services

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The Officer to receive notice from a member of the scrutiny Committee that they wish an item to be placed on the agenda for the next available meeting of the scrutiny Committee and to ensure that such item is included on the next agenda	Assistant Director - Legal & Democratic Services
The Officer to receive written notice from members of the Council who are not members of the scrutiny Committee that they wish an item to be included on the agenda of the Scrutiny Committee and to ensure that such item is included on the next agenda	Assistant Director - Legal & Democratic Services
The Officer to receive the report of the scrutiny Committee and to allocate such report to either both Cabinet appropriate regulatory committee or Council	Assistant Director - Legal & Democratic Services
The Office to inform in writing a Member or Officer required to attend the scrutiny Committee of that requirement	Assistant Director - Legal & Democratic Services
Functions under the Local Authorities (Executive Arrangements) (Access to Head of Information)(England) Regulations 2000	Assistant Director - Legal & Democratic Services
Producing a written statement of executive decisions made at meetings.	Assistant Director - Legal & Democratic Services
Making a copy of written statements of executive decisions and associated reports available for inspection by the public.	Assistant Director - Legal & Democratic Services
Making available for inspection a list of background papers.	Assistant Director - Legal & Democratic Services
Exclusion of whole or part of any report to the Cabinet where meeting is likely not to be open to the public.	Assistant Director - Legal & Democratic Services
Provision to the press of other documents supplied to members of the Cabinet in connection with the item discussed.	Assistant Director - Legal & Democratic Services
Establish and maintain a Register of Interests.	Assistant Director - Legal & Democratic Services

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[The Health and Safety at Work Act 1974](#)

	As regards the Council's powers and duties as an employer under the Health and Safety at Work etc Act 1974	Chief Executive
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