

Derby City Council

Constitution



Derby City Council

Adopted by the Council

17 January 2024 with effect from 2 May 2024

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1. SUMMARY AND EXPLANATION

General

1. The Derby City Council has agreed this Constitution. The Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. The Council must operate in accordance with its Constitution and the rules set out in it.
2. The Constitution is divided into different parts which set out the basic rules governing the Council's business as well as some of the detailed rules. The Council has chosen to make most decisions through a Leader and Cabinet, and this is explained below.
3. The Council's current corporate objectives and priorities are set out in its Council Plan. This is available on the Council's website¹ together with the Council's vision and values².
4. The Constitution ensures that the Council's decision-making and governance arrangements effectively and efficiently support the corporate aims, objectives and priorities. It also ensures that the Council meets its legal duties.

The Constitution and its content

5. The Constitution is divided into nine parts:

Part 1 - Summary and Explanation: Provides an explanation of what the Council is and how it works.

Part 2 – Public Participation: Explains how the public can get involved in Council decision making.

Part 3 – Council: Explains what the Council is and how the full body of all elected councillors (Members) meet to make decisions.

Part 4 – Committees: Sets out the role of each of the different committees of the Council and how they make decisions.

Part 5 – Executive: Explains the role of the Executive, which in Derby is called the Executive Leader and Cabinet. The members of Cabinet have portfolios, which means they have special areas of responsibility, but meet to make decisions.

Part 6 – Joint Arrangements: Sets out the joint arrangements that the Council has made to work in partnership with councils and other bodies where

¹ [Council Plan 2022-2025 - Derby City Council](#)

² [Working for us - Derby City Council](#)

decision making is shared.

Part 7 – Overview and Scrutiny: Explains the arrangements the Council has put in place to ensure that decisions are scrutinised by other members of the Council not directly involved in the decision making.

Part 8 – Councillors: Provides details about how councillors operate as individuals and the measures in place to ensure that councillors maintain high standards of conduct. It also shows what payments are made to councillors.

Part 9 – Officers: Explains the role of the Council's staff, describes the management structure of the Council, and which officers take decisions. It also explains the measures in place to ensure that officers maintain high standards of conduct and take decisions in line with expectations set by councillors.

6. Changes to the Constitution can only be approved at a meeting of full Council after consideration of the proposal by the Monitoring Officer, unless in the reasonable opinion of the Monitoring Officer a change is:
 - (a) a minor variation; or
 - (b) to remove any inconsistency or ambiguity; or
 - (c) to put into effect any decision of the Council or its committees or the Executive; or
 - (d) to comply with legislative provision.

in which case the Monitoring Officer may make such a change. Any change made by the Monitoring Officer shall come into force with immediate effect but shall be referred to the next available Council meeting and shall continue to have effect only if full Council agrees. Other changes to the Constitution shall come into effect at such a date as the Council may stipulate.

How the Council operates

7. The Council is made up of 51 councillors (excluding vacancies) who are elected every four years. Councillors are democratically accountable to residents of their electoral ward. The overriding duty of councillors is to the whole community of Derby, but they have a special duty to their constituents, including those who did not vote for them.
8. All councillors meet together as the full Council. Meetings of the Council are normally open to the public. At these meetings, the councillors decide the Council's overall policies and set the way that the budget will be spent each year.
9. Meetings are conducted in accordance with the [Council Meeting Procedure Rules](#) in Part 3 of this Constitution.

10. There are some decisions that can only be taken by the full Council. The Council sets the Budget and the Policy Framework. All decisions must be taken within the Budget and in accordance with the Policy Framework and only Council can change them. Details of these are in Part 3.
11. The Council is responsible for electing (and can remove) the Leader who, in turn, will appoint a Deputy Leader and a Cabinet. The Council (mainly through the Overview and Scrutiny process and call-in of decisions) is responsible for holding the Cabinet to account.
12. The Council also decides on the delegation of certain functions to the Cabinet and some committees and joint committees.
13. In performing their various roles, councillors are supported by the officers who give advice and implement decisions. Some decisions are delegated to officers to ensure that the Council can act quickly and efficiently. Officers also ensure the Council acts within the law and uses resources efficiently and effectively.

How decisions are made

14. The Cabinet is the part of the Council responsible for most day-to-day decisions. The Cabinet is made up of a Leader appointed by the full Council and between two and nine other councillors appointed by the Leader.
15. When [Key Decisions](#) (these are specific significant decisions defined in Part 5) are to be discussed or made, these are published in the Council's [Forward Plan](#) and a public notice is placed on the Council's website. If these decisions are to be discussed at a meeting of the Cabinet, this will generally be open for the public to attend except where [Confidential or Exempt Information](#) (defined in Part 5) is being discussed. The Cabinet generally has to make decisions that are in line with the Council's overall policies and budget. If it wishes to make a decision that is not consistent with existing policies and budget, this must usually be referred to full Council to decide.
16. The core objective is to ensure that decisions are made at the most appropriate level closest to the local or immediate point of service delivery, or at the level that is closest to those who will be affected by the decision in question.
17. The Council has set out to achieve this by putting in place a system of delegation known as a 'cascade of powers'. Under this system its operational powers have been delegated to the fullest extent and range possible through the hierarchy of the Cabinet, committees and the officer structure. Under this system, power follows responsibility so powers ultimately rest where they need to be so that the decisions that need to be taken to deliver the authority's objectives can be taken at the most appropriate level.
18. Officers tend to take most operational day-to-day decisions because they operate at the point closest to service delivery. For this reason, the Council has decided that unless a power or function is specifically reserved by law or in

this Constitution to the Council, the Cabinet or a committee, it stands delegated to officers to the fullest extent necessary to enable them to do everything that their role requires of them.

19. Any ambiguity that may arise as to whether a decision-maker is authorised to take any decision is to be resolved by reference back up through the hierarchy of the 'chain of cascade', and legal advice should be sought if necessary. There should, however, be a presumption against referring (or calling) decisions back up the chain unless it is necessary to do so.
20. Individual decision-makers may nevertheless consider it would be prudent for a decision that would otherwise fall to be taken by them to instead be taken (or ratified) by:
 - (a) in the case of an officer, by their manager or another officer with equivalent authority;
 - (b) in the case of a decision-maker under a bespoke delegation, by the person or body who made that delegation.
21. Individual decision-makers should also have regard as to whether a decision should be made in conjunction with any officer or member and the need to consult and take advice as appropriate.

Decision Making Principles

22. All council decisions will be made in the best interests of the communities of Derby and in accordance with the following principles:
 - (a) Take into account all relevant considerations and ignore those which are irrelevant;
 - (b) Compliance with finance, contract and all other procedure rules, statutory requirements, guidance and codes of practice;
 - (c) Compliance with the budget and policy framework, including directorate and service budgets, business plans and any other policies, arrangements, procedures, rules, practices or protocols in force from time to time;
 - (d) Due consultation and proper advice is taken and consideration of alternative options before decisions are reached;
 - (e) Impartiality and an absence of bias, pre-determination or conflicts of interest;
 - (f) Any interests are properly declared;
 - (g) Reasons are given for decisions;
 - (h) Decisions are properly recorded and published;

- (i) Decisions are proportionate to the desired outcome;
- (j) Assessing the impact on human rights, equality, diversity and sustainability, including having due regard for the Climate Emergency declared by the Council on 22 May 2019;³
- (k) A presumption in favour of transparency and openness;
- (l) Clarity of aims and desired outcomes;
- (m) Records are kept of decisions taken and reasons are given for them;
- (n) Following best practice, securing best value and making the most efficient and effective use of resources;
- (o) Have due regard to the desirability of exercising its functions in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage⁴.

Armed Forces Covenant Duty

23. The Council is under a legal obligation⁵ to have regard to the following when exercising relevant functions:

- (a) the unique obligations of, and sacrifices made by, the Armed Forces;
- (b) the principle that it is desirable to remove disadvantages arising for Service people from membership, or former membership, of the Armed Forces, and
- (c) the principle that special provision for Service people may be justified by the effects on such people of membership, or former membership, of the Armed Forces

24. Relevant functions in scope of the Covenant Duty⁶ are summarised below:

- (d) **Local authority-delivered healthcare services:** the provision of services; planning and funding; and co-operation between bodies and professionals;
- (e) **Compulsory education functions:** admissions; educational attainment and curriculum; child wellbeing; transport; attendance; additional needs support; and use of Service Pupil Premium funding;

³ [Declaration of Climate Emergency by Full Council, 22 May 2019](#)

⁴ Compliance with the Socio-Economic Duty under section 1 of the Equality Act 2010, [adopted by the Council on 25 May 2022](#)

⁵ The Armed Forces Act 2006 (as amended by the Armed Forces Act 2021 and supplemented by the Armed Forces (Covenant) Regulations 2022 and statutory guidance: [Armed Forces Covenant Duty Statutory Guidance.pdf \(publishing.service.gov.uk\)](#)

⁶ See sections 343AA(4)-(6), 343AB(4)-(6), 343AC(4)-(6) and 343AD(4)-(6) of the 2006 Act.

- (f) **Housing functions:** allocations policy for social housing; tenancy strategies; homelessness; and disabled facilities grants.

25. The duty to give 'due regard' means that decision makers should think about and place appropriate weight on the principles of the Armed Forces Covenant when carrying out relevant functions. It is not prescriptive about the actions that should be taken, nor does it mandate specific public service delivery outcomes.

2. PUBLIC PARTICIPATION

Introduction

26. In Derby, residents, community organisations, businesses and visitors are able to get involved in the management of the area. The Council encourages and actively supports people getting involved. Our governance is designed to make it easy for people to give us their views to help influence decision making and the actions the Council takes. To encourage involvement, this section has gathered together the key ways in which the public and others outside the Council can get involved.

Councillors

27. The City of Derby is divided into 18 administrative areas, called wards. Each ward has two or three elected councillors who are elected every four years. There is more information about elections and how to register to vote on the Council's website.⁷ Although they have responsibility for the whole of the Council area, councillors also have a particular responsibility to the residents of their ward. Details of who your local councillor is, and how to get in touch with them are available on the Council's website.⁸ A councillor may also hold scheduled sessions where residents can meet them face to face to talk about issues and to get advice and ask their councillors to raise matters with the Council on their behalf.

Cabinet

28. The Cabinet consists of the Leader and Cabinet Members who are responsible for particular services and activities. Residents can check who the Cabinet Member is for a particular matter on the Council's website⁹. The Cabinet has developed a Forward Plan which is also published on the Council's website¹⁰. It indicates the most important decisions (known as Key Decisions) that the Cabinet will be taking in the future and when this is likely to be done, so that anyone can attend the public meetings considering those decisions.

Overview and Scrutiny Boards

29. The Council has an Executive Scrutiny Board and up to three Scrutiny Review Sub-Boards, which deal with separate parts of the Council's work. These committees help the Council to develop new policy and act as a 'critical friend' to hold decision makers to account. Overview and Scrutiny Boards also carry out investigations and reviews, and welcome suggestions from residents and businesses as to areas they could investigate.

Can I attend meetings?

⁷ [Election information - Derby City Council](#)

⁸ [Find your local councillor - Derby City Council](#)

⁹ [Leadership of the Council - Derby City Council](#)

¹⁰ [Public Documents \(derby.gov.uk\)](#)

30. Meetings of the Council, the Cabinet and the committees are open to the public to attend and observe. They can also usually be watched live or recorded via our website: [Derby City Council – YouTube](#).
31. There are some occasions when the Council needs to discuss confidential details. We can only do this when there are legal reasons such as personal information being discussed, which means meetings have to go into private session. When this happens, a formal decision is made to exclude the press and public from the meeting while these issues are considered. As soon as the item has been dealt with, the public can return to the meeting unless there are other confidential items. If an agenda item is to be considered in private, this will be clearly marked on the agenda for the meeting. Usually, confidential business is considered at the end of a meeting.
32. The dates and times of formal meetings are published on our website and agendas are made available at least five clear working days in advance, so you can see what items will be discussed.

Can I speak at meetings?

33. The public are primarily there to observe, but can raise questions and can also attend and speak as part of a deputation at full Council meetings (see [Council Procedure Rules](#), below).

Petitions

34. The Council welcomes petitions and recognises that petitions are one way that people express their concerns about issues affecting communities within the area. Details of the Council's [Petitions Scheme](#) can be found on the website.

Budget and Policy Development

35. The Council is particularly keen to encourage public participation in the preparation of the Council's budget and in the development of policies so that residents are able to directly influence the framework of decisions. When setting the Budget or agreeing policy we will consider options to ensure the maximum opportunity for contribution before a decision is finally made by all the councillors sitting in Full Council.

Public Consultation

36. The Council holds a legal duty to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. In doing so, the Council is under a statutory duty to consult with Council Tax payers, non-domestic ratepayers, service users and other interested parties.¹¹

¹¹ [Section 3, Local Government Act 1999](#)

37. The Council tries to consult as widely and as fairly as possible. Sometimes, with matters such as planning and licensing applications, there are specific statutory consultation processes that the Council must follow. Other than this, we will try to consult on important decisions as widely as possible and give feedback about the outcome of the consultations.¹²

38. The Council follows principles of good consultation (called Gunning Principles¹³) when we consult. This means:

- (a) consultation is carried out at a stage when the Council has not made up its mind on any proposals;
- (b) we give enough information and reasons are given for any proposals to enable residents to understand their impact and respond;
- (c) we give you enough time to consider our proposals and respond to them; and
- (d) we will consider all responses to the consultation when finalising the decision.

Social Media

39. Derby City Council is active on social media and updates are available by following the Council's social media accounts.¹⁴ Many local councillors have their own social media accounts too.

Community Rights

40. The Localism Act 2011 introduced rights and powers for individuals and communities to take over public services, community assets and influence planning and development.

41. The community rights are a set of powers that give local people a greater say over what is built and how their community develops. Groups of people have the chance to deliver local services and develop them into community enterprises. More details can be found on the website¹⁵.

42. There are five Community Rights:

- (a) **Community Right to Bid** - allows communities and parish councils to nominate buildings or land for listing by the local authority as an 'asset of community value'. If the asset comes up for sale, the community can 'pause' the sale and take up to six months to find the funding required to buy the asset.

¹² [Let's Talk Derby - Online Consultation Platform](#)

¹³ [The Gunning Principles \(local.gov.uk\)](#)

¹⁴ [Social media - Derby City Council](#)

¹⁵ [Assets of Community Value and the Community Right to Bid - Derby City Council](#)

- (b) **Community Right to Build** - gives communities the power to build new shops, housing or community facilities without going through the normal planning process. It gives local organisations the right to bring forward small-scale community-led developments.
- (c) **Community Right to Challenge** - gives local groups the opportunity to express their interest in taking over a local service where they think they can do it differently and better.
- (d) **Community Right to Reclaim Land** - allows communities to challenge councils and some other public bodies to release their unused and underused land so that it can be brought back into use.
- (e) **Community Asset Transfer** - the transfer of management and/or ownership of appropriate land or buildings from a public body to a community-based organisation, at less than market value, in order to promote social, economic or environmental well-being.

Additional rights

43. Derby citizens have a number of other rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes. Citizens have the right to:

- (a) Vote at local elections if they are registered as an elector in the city;
- (b) Sign petitions requesting:
 - (i) the establishment of a parish council or similar Community Governance Review¹⁶
 - (ii) a referendum to replace the council's political management model¹⁷.
- (c) Make complaints about services to:
 - (i) the Council, using the Council's Complaints Procedure;
 - (ii) the Ombudsman, if they think the Council has not followed its complaints procedures properly;
 - (iii) the Monitoring Officer, about alleged breaches of the Councillors' Code of Conduct;
 - (iv) the Information Commissioner in relation to the Council's actions under the Data Protection Act 1998 and the Freedom of

¹⁶ See the [Legislative Reform \(Community Governance Reviews\) Order 2015](#).

¹⁷ See the [Local Authorities \(Referendums\)\(Petitions\)\(England\) Regulations 2011](#). Every year, the Council will publish details of the number of electors required to instigate a referendum for a change in governance arrangements.

Information Act 2000.

(d) Inspect the following documents:

- (i) the Constitution;
 - (ii) the Forward Plan, to find out what major decisions are to be discussed by the Executive or decided by the Leader or officers, and when;
 - (iii) the Register of Members' Interests;
 - (iv) the pay and remuneration policies for chief and senior officers;
 - (v) agendas, public reports, background papers and any public records of decisions made by Council, Leader, Cabinet, committees and officers, except those relating to exempt or confidential items;
 - (vi) the Council's accounts as part of the annual audit and make their views known to the external auditor;
- (e) Access other information as set out in the Access to Information Rules;
- (f) Participate in Neighbourhood Planning, as identified by the Localism Act 2011.

44. Where members of the public use specific council services, for example as a parent of a school pupil or as a council tenant, citizens have additional rights, which are not covered in this Constitution.

3. FULL COUNCIL

Role

1. The full Council (or the Council) is the term for the assembly of all of the elected members who sit on the Council. There are 51 members on Derby City Council and they make some decisions together, including:
 - (a) Setting the Budget;
 - (b) Agreeing overarching policies – called the Policy Framework;
 - (c) Electing the Executive Leader;
 - (d) Appointing the Council's non-executive committees.
2. There are five types of Council meeting:
 - (f) **Annual meetings** - in a year where there is an ordinary election of members to the Council, the Annual Council meeting takes place within 21 days of the retirement of the existing members. In any other year, Annual Council will take place in March, April or May.
 - (g) **Budget meetings** - occur before 11 March each year to determine the Council's financial commitments and set the Council Tax.
 - (h) **Ordinary meetings** - usually occur in January, July, September and November each year to receive reports on key priorities, debate issues and take decisions that can only be made by Full Council.
 - (i) **Extraordinary meetings** - called when urgent business arises that must be dealt with by Council before the next scheduled Ordinary meeting.
 - (j) **Special meetings** - e.g. for the appointment of honorary aldermen and alderwomen or the award of Honorary Freedom of the City.

Executive and Non-Executive Functions

3. Decisions taken by the Council are divided by law into two types: Executive and Non-Executive.
4. The law¹⁸ specifies which functions are the responsibility of the Council, which are the responsibility of the Executive (Cabinet), and which may (but need not) be the responsibility of the Executive (Local Choice functions). All other functions not specified are the responsibility of the [Executive \(see Section 5\)](#).

¹⁸ See the [Local Authorities \(Functions and Responsibilities\) \(England\) Regulations 2000](#) and subsequent regulations giving effect to Section 13 of the Local Government Act 2000

5. Only full Council will exercise the following functions (insofar as they are not delegated to officers by Council under the Officer Scheme of Delegations (see below):

- (a) Adopting and changing the Constitution;
- (b) Approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer¹⁹;
- (c) Setting the Council Tax and agreeing a scheme specifying the reductions which are to apply to amounts of Council Tax payable by persons, or classes or persons, whom the authority considers are in financial need;
- (d) Subject to the urgency procedure in the Access to Information Rules, making decisions about any matter where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to, or not wholly in accordance with, the Budget;
- (e) Electing the Mayor and Deputy Mayor of the Council;
- (f) Appointing and removing the Executive Leader;
- (g) Agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (h) Approving a programme of Ordinary Council meetings and committee meetings for the year;
- (i) Determining whether Local Choice functions should be reserved to the Council or exercised by the Cabinet or officers acting under delegated powers;
- (j) Appointing representatives to outside bodies, unless the appointment is an Executive function or has been delegated by the Council;
- (k) Adopting a Members' Allowance Scheme;
- (l) Changing the name of the area;
- (m) Conferring the title of Honorary Alderman, Honorary Alderwoman or Freedom of the City;

¹⁹ Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

- (n) Determining the terms and conditions on which staff hold office (including procedures for their dismissal), unless otherwise delegated to a committee or officer;
 - (o) Confirming the appointment of the Head of Paid Service, Monitoring Officer and s.151 Officer;
 - (p) Approval of the Pay Policy Statement;
 - (q) Approval of any discretionary sums of £100,000 or more paid to employees on termination of employment in addition to statutory and contractual redundancy or severance terms²⁰;
 - (r) Making, amending, revoking, re-enacting, adopting or enforcing bylaws and promoting or opposing the making of local legislation or personal bills;
 - (s) Any resolution under section 116 of the Gambling Act 2005;
 - (t) In respect of electoral functions:
 - (i) assigning officers in relation to requisitions of the Registration Officer;
 - (ii) dividing constituencies and wards into polling districts;
 - (iii) holding elections;
 - (iv) filling vacancies in the event of insufficient nominations;
 - (v) declaring vacancies in office in certain cases;
 - (vi) giving notice of a casual vacancy;
 - (vii) determining fees and conditions for supply of copies of, or extracts from, elections documents;
 - (viii) submitting proposals to the Secretary of State for an order under section 10 of the Representation of the People Act 2000 (pilot schemes for local elections).
 - (u) All other matters which, by law, must be reserved to Council.
6. All Council meetings will follow the Council Procedure Rules and any other procedural rules that apply to them when considering any matter.

²⁰ [Statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England, 12 May 2022.](#)

Local Choice Functions

7. The law²¹ describes the decisions that are a matter of local choice. It is up to the Council to decide whether or not these functions should be the responsibility of the Executive. The Council has decided that Local Choice functions will be Executive or Non-Executive as set out in the table below:

LOCAL CHOICE FUNCTION	STATUS OF FUNCTION	DELEGATION TO OFFICERS	DELEGATION TO NON-EXECUTIVE COMMITTEES
1. Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1.	Executive	The relevant Cabinet member and, where this is not clear, to be determined by the Chief Executive	-
2. Other than those reserved to a Non-Executive committee, the determination of appeals against any decision made by or on behalf of the authority.	Executive	The Leader in consultation with the Director of Corporate Governance, Property and Procurement	-
3. The appointment of review boards under regulations under s.34(4) (determination of claims and reviews) of the Social Security Act 1998	Executive	The relevant Cabinet member, in consultation with the Strategic Director for People Services	-
4. The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools pursuant to s.51A of the Education Act 2002	Executive	The relevant Cabinet member, in consultation with the Strategic Director for People Services	-
5. The making of arrangements	Executive	The relevant Cabinet member, in	-

²¹Schedule 2 of the [Local Authorities \(Functions and Responsibilities\) \(England\) Regulations 2000](#)

pursuant to s.94(1), (1A) and (4) of, and Schedule 24 to, the School Standards and Framework Act 1998 (admission appeals)		consultation with the Strategic Director for People Services	
6. The making of arrangements pursuant to s.95(2) of, and Schedule 25 to, the School Standards and Framework Act 1998 (children to whom s.87 applies: appeals by governing bodies)	Executive	The relevant Cabinet member, in consultation with the Strategic Director for People Services	-
7. Any function relating to contaminated land.	Executive	Strategic Director for Place	-
8. The discharge of any function relating to the control of pollution or the management of air quality	Executive	Strategic Director for Place	-
9. The service of an abatement notice in respect of a statutory nuisance	Executive	Strategic Director for Place	-
10. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	Executive	Strategic Director for Place	-
11. The inspection of the authority's area to detect any statutory nuisance	Executive	Strategic Director for Place	-
12. The investigation of any complaint as to	Executive	Strategic Director for Place	-

the existence of a statutory nuisance			
13. The obtaining of information under s.330 of the Town and Country Planning Act 1990 as to interests in land	Executive	Strategic Director for Place	-
14. The making of agreements for the execution of highways works	Executive	Strategic Director for Place	-
15. The obtaining of particulars of persons interested in land under s.16 of the Local Government (Miscellaneous Provisions Act 1976	Executive	Any Chief Officer or Deputy Chief Officer of the Council	-
16. The appointment of any individual: (a) to any office other than an office in which they are employed by the authority; (b) to any body other than: (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body.	Executive/Non-Executive	The Chief Executive where the appointment relates to Non-Executive functions, aside from those appointments made at the Council's Annual General Meeting. The Leader where the appointment relates to Executive functions.	Council

Budget and Policy Framework

8. Full Council is responsible for considering proposals put to it by Cabinet on the policies and budgets that capture the authority's priorities and how it allocates its resources. Once a Budget or a policy in the Policy Framework is adopted by the Council, it is the responsibility of the Cabinet to implement it.

Budget

9. The Budget is the identification and allocation of financial resources by the Council to different services and functions, including:
 - (a) Revenue expenditure;
 - (b) Contingency and reserve funds;
 - (c) Council Tax;
 - (d) Borrowing requirements and limits;
 - (e) Capital expenditure;
 - (f) Medium Term Financial Plan;
 - (g) Any limitations to, conditions on or rules governing, the management of budgets, virement between budgets, treatment of underspends, windfall income or reserves contained within the Finance and Contract Procedure Rules.

Policy Framework

10. The Council has agreed that the following list of plans and strategies will sit within the Policy Framework, some of which are required by law²² to be decided by Full Council, usually on the recommendation of Cabinet:
 - (a) Council Plan
 - (b) Children and Young People's Plan
 - (c) Crime and Disorder Reduction Strategy
 - (d) Development plans, documents and alterations that together comprise the Local Plan (and associated documents)
 - (e) Licensing Authority Policy Statement
 - (f) Local Transport Plan

²²Regulation 4 and Schedule 3 of the [Local Authorities \(Functions and Responsibilities\) \(England\) Regulations 2000](#).

- (g) Youth Justice Plan
- (h) Gambling Policy
- (i) Pay Policy Statement

Budget and Policy Framework Procedure Rules

The framework for Executive decisions

- 1.1 The Council is responsible for the adoption of the Budget and Policy Framework as set out in 3.8, above. Once the Budget and Policy Framework are in place, it is the Cabinet's responsibility to take decisions in accordance with them.

Process for developing the Policy Framework

- 2.1 The process by which the Budget and Policy Framework shall be developed is:

- (a) The Cabinet will publicise (by including in the Forward Plan) a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework, together with arrangements for consultation after publication of those initial proposals. The Chairs and Vice-Chairs of Overview and Scrutiny Boards will also be notified. The consultation period in each instance shall be not less than six weeks, unless the Council agrees otherwise.
- (b) If the relevant Overview and Scrutiny Board wishes to respond to the Cabinet through that consultation process, then it may do so. The Overview and Scrutiny Board may investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from an Overview and Scrutiny Board into account when drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.
- (c) Once the Cabinet has approved firm proposals, the Monitoring Officer will refer them at the earliest opportunity to the Council for decision.
- (d) In reaching a decision, the Council may adopt the Cabinet's proposals. But if the Council has any objections to the Cabinet's proposals, then before it amends, approves or adopts any plan, strategy or budget, it must inform the Leader of those objections and require the Cabinet to reconsider. The Cabinet may, within such reasonable period as the Monitoring Officer may determine (which shall not be less than five working days), submit revised proposals or inform the Council of the Cabinet's disagreement with the Council's objections and the reasons for this. Once that period has expired, the Council in amending, approving or adopting any plan, strategy or budget, must take into account any revised proposals and the views of the Cabinet.
- (e) In the case of budget proposals submitted to the Council after 8 February in any financial year and any budget proposals submitted following designation or nomination by the Secretary of State, then the Council may amend, approve or adopt the Cabinet's proposals and need not require the Cabinet to reconsider.

- (f) In approving the Budget and Policy Framework, the Council will also specify the extent of virement within the Budget and degree of in-year changes to the Policy Framework which may be undertaken by the Cabinet, in accordance with Rules 9 and 10 (virement and in-year adjustments). Any other changes to the Budget and Policy Framework are reserved to the Council.

Decisions outside the Budget and Policy Framework

- 3.1 Subject to the provisions of Rule 9 (virement) the Cabinet, committees of the Cabinet and any officers or joint arrangements discharging Executive functions, may only take decisions which are in line with the Policy Framework. If any of these bodies or persons wish to make a decision that is contrary to the Policy Framework, or contrary to, or not wholly in accordance with the Budget approved by full Council, then that decision may only be taken by the Council, subject to Rule 5 (urgent decisions outside the Budget and Policy Framework) below.
- 3.2 If the Cabinet, a committee of the Cabinet or any officers or joint arrangements discharging Executive functions, want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred to the Council for decision, unless the decision is a matter of urgency - in which case the provisions in Rule 4 (urgent decisions outside the Budget and Policy Framework) shall apply.

Urgent decisions outside the Budget and Policy Framework

- 4.1 The Cabinet, a committee of the Cabinet, specified officers acting under urgency provisions, or joint arrangements discharging Executive functions, may take a decision that is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by full Council, if the decision is a matter of urgency. However, the decision may only be taken if:
 - (a) it is not practical to convene a quorate meeting of the full Council; and
 - (b) the Chair of the relevant Overview and Scrutiny Board agrees that the decision is a matter of urgency.
 - (c) Urgent decisions are made in circumstances where:
 - (i) a decision is required by statute or otherwise within a specified time-scale; or
 - (ii) any delay likely to be caused by not making the decision would seriously prejudice the Council's or the public's interests; or

- (iii) any delay likely to be caused by not making the decision would be likely to expose the Council, its Members or the public to a significant level of risk, loss, damage or disadvantage.

- 4.2 The reasons why it is not practical to convene a quorate meeting of full Council and the Chair of the relevant Overview and Scrutiny Board's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of the relevant Overview and Scrutiny Board, the consent of the Vice-Chair, shall be obtained - and in the absence of both, the consent of the Mayor shall be obtained.
- 4.3 Following the decision, the decision taker will provide a full report to the next available Council meeting, explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

Virement

- 5.1 The scheme of virement is set out in the [Financial Procedure Rules](#) in Part 9, below.

In-year changes to the Policy Framework

- 6.1 No changes to any policy or strategy which make up the Budget and Policy Framework may be made by the Cabinet, officers, or joint arrangements discharging Executive functions except those changes:
 - (a) necessary to ensure compliance with the law, or ministerial direction;
 - (b) in relation to a policy that would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration;
 - (c) which relate to a policy in relation to maintained schools, where the majority of school governing bodies agree with the proposed change;
 - (d) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint.

Call-in of decisions outside the Budget and Policy Framework

- 7.1 Council can only consider call-in decisions or proposed decisions which relate to an Executive decision that is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. Where councillors are of the opinion that this is the case, they shall seek advice from the Monitoring Officer and/or the Chief Finance Officer.
- 7.2 In respect of functions that are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether or not the decision is delegated, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's and/or Chief Finance Officer's report

and prepare a report to Council in the event that the Monitoring Officer and/or the Chief Finance Officer conclude that the decision was a departure; and to the relevant Overview and Scrutiny Board if the Monitoring Officer and/or the Chief Finance Officer conclude that the decision was not a departure.

- 7.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget, councillors may, in accordance with the call-in procedure set out in the Overview and Scrutiny Procedure Rules, refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 working days of the request by members of the Overview and Scrutiny Board unless the Leader, or in their absence the Deputy Leader, agrees that the Council need not necessarily meet within the specified period. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer.
- 7.4 The Council may either:
- (a) Endorse a decision or proposal of the Executive decision taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
 - (b) Amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the Executive decision taker and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
 - (c) Where the Council accepts that the decision or proposal is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget, and does not amend the existing Framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer and/or the Chief Finance Officer.
- 7.5 If the Council does not meet, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier providing that the Monitoring Officer and/or the Chief Finance Officer are satisfied that the decision is within the Budget and Policy Framework or falls within Rule 10(a)-(d).

Council Meeting Procedure Rules

1 ANNUAL MEETINGS

- 1.1 In a year when there is an ordinary election of councillors, the Annual meeting of the Council shall take place within 21 days from the retirement of the outgoing Members. In any other year, the Annual meeting shall take place on such day in March, April or May as the Council may fix.
- 1.2 At the Annual meeting the Council will:
- (a) Elect a Member, other than a Cabinet member, to preside if the Mayor or Deputy Mayor is not present;
 - (b) Elect a Member, other than a Member of the Executive, to be the Mayor;
 - (c) Elect a Member, other than a Member of the Executive, to be the Deputy Mayor;
 - (d) Receive apologies for absence;
 - (e) Receive any declarations of interest from Members;
 - (f) Approve the minutes of the last meeting;
 - (g) Receive any announcements from the Mayor or the Chief Executive;
 - (h) Elect the Executive Leader in any year in which the Leader's term of office expires (for a four-year term), or if the office of Leader becomes vacant (for the remainder of the four-year term of councillors). The term of office of the Leader shall, subject to earlier removal, end on the day of the Annual Meeting following the ordinary election of councillors;
 - (i) Receive any announcements from the Leader;
 - (j) Approve a programme of Ordinary meetings of the Council for the year;
 - (k) Appoint at least one Overview and Scrutiny Committee, a Standards Committee, an Audit Committee and such other committees as required;
 - (l) Decide the size and terms of reference for those committees;
 - (m) Decide the allocation of seats to political groups in accordance with the political proportionality rules;
 - (n) Appoint a Chair and Vice-Chairs to serve on each Committee, unless otherwise specified in the [Committee and Sub-Committee Meeting Procedure Rules](#);
 - (o) Receive nominations and appoint councillors to serve on each committee and outside body, except where appointment to those bodies has been delegated by the Council or is exercisable by the Executive;

- (p) Consider any other business set out in the summons convening the meeting;
- (q) Consider any business that the Mayor believes to be urgent, in that the matter to be determined has arisen since the publication of the agenda and failure to determine it at this meeting would cause significant adverse impact on the Council.

2 ORDINARY MEETINGS

2.1 Ordinary meetings of the Council shall take place in accordance with a programme decided at the Council's Annual meeting. Ordinary meetings will:

- (a) Elect a Member, other than a Cabinet member, to preside if both the Mayor and the Deputy Mayor are not present;
- (b) Receive apologies for absence;
- (c) Approve the minutes of the last meeting;
- (d) Receive any declarations of interest from Members;
- (e) Receive any announcements from the Mayor or the Chief Executive;
- (f) Respond to any questions relating to the Council from members of the public who are residents of, or working in, Derby;
- (g) Respond to any questions from Members;
- (h) Deal with any business adjourned from the last Council meeting;
- (i) Receive the Leader's report and Member questions on the report;
- (j) Receive any deputations or petitions;
- (k) Consider motions on notice;
- (l) Consider any other business specified in the summons to the meeting, including:
 - (i) Proposals from the Cabinet in relation to the Council's Budget and Policy Framework;
 - (ii) Reports from the Overview and Scrutiny Boards for debate;
 - (iii) Reports about, and questions and answers on, the business of joint arrangements and external organisations.

3 EXTRAORDINARY MEETINGS

- 3.1 The Monitoring Officer may call, and those listed below may require the Monitoring Officer to call, Extraordinary Council meetings in addition to Ordinary meetings:
- (a) The Council by resolution;
 - (b) The Mayor;
 - (c) Any five councillors who have a signed request to the Mayor and the Mayor has refused to call a meeting or has failed to call a meeting within 5 clear working days of the presentation of the request.
- 3.2 Only business specified in the summons may be transacted at an Extraordinary Council meeting.

4 BUDGET MEETINGS

- 4.1 At the Council meeting where the Council's Budget and Council Tax is approved and set (which must be held before 11 March each year²³), the agenda will be limited to the following substantive items:
- (a) Consideration of the Leader's recommendations for the Budget, Capital Programme, Borrowing Policy and Council Tax;
 - (b) Any other urgent business as agreed by the Mayor.
- 4.2 Subject to the discretion provided to the Mayor at Section 19 of these Procedure Rules, alternative Budget proposals that any political group or member wishes to be considered must be provided in final form, following prior consultation and written approval of the Chief Finance Officer, five clear working days in advance of the Budget meeting. Any submissions not received within this time will not be allowed without the express consent of the Mayor.²⁴
- 4.3 Any submissions not prepared in a form acceptable to the Chief Finance Officer as being capable of being adopted by the Council as a lawful Budget will not be allowed.
- 4.4 Alternative Budgets and amendments to the Budget which are to be debated at a Budget meeting shall be submitted in the form of an alternative Budget or a list of proposed amendments to the Budget submitted by the Administration. The text of all alternative Budgets or proposed amendments must be submitted to the Monitoring Officer five clear working days before the meeting, subject to the discretion provided to the Mayor within the Council Procedure Rules. The Monitoring Officer shall comply with the wishes of the Leader of the relevant political group in determining when to make the documents available to other councillors, the press and public, subject to this being no later than the start of the meeting at which the Budget is to be discussed.

²³ Section 30(6) [Local Government Finance Act 1992](#).

²⁴ See paragraphs 19.3 to 19.5 of the Council Procedure Rules (Notice of Amendments)

- 4.5 Alternative Budgets or proposed amendments to the Budget will be considered in the order set out above. Only one alternative Budget or proposed amendment may be moved and discussed at any one time, unless the Mayor decides otherwise.
- 4.6 No further amendments may be moved until the alternative Budget or amendment to the Budget under discussion has been dealt with.
- 4.7 If an alternative Budget or amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments which have already been notified are moved.
- 4.8 At a Budget meeting, the following rules shall apply to debate on the annual Budget:
- (a) The exact length of speeches for each proposer and management of the debate is at the discretion of the Mayor. Councillors will be notified of any such alterations to the Council Procedure Rules at least two working days prior to the meeting.
 - (b) The Mayor will call the Leader, or their nominee, to propose and move the Budget. The seconder will have up to five minutes to second the Budget.
 - (c) Once the Budget has been seconded, the Mayor will call the other political group leaders, or their nominees, to speak. Each will be called in order of precedence according to the number of councillors in each group. Where two groups have the same number of members, the Mayor shall exercise their discretion.
 - (d) The Leader of the largest political group not forming part of the Administration, or their nominee, may make a statement or propose an alternative Budget or amendments. If an alternative Budget or amendments have been proposed, the seconder will have up to five minutes to speak.
 - (e) The Leaders of each of the other political groups not forming part of the Administration, or their nominees, may make a statement or propose an alternative Budget or amendments. If an alternative Budget or amendments have been proposed, the seconder will have up to five minutes to speak.
 - (f) If an opposition group proposes an alternative Budget or amendments, then after each has been seconded they shall be debated. The normal rules of debate shall apply. The proposer of the alternative Budget or amendments has a right of reply. The proposer of the Administration's Budget also has a right of reply prior to the vote. Each alternative Budget or list of amendments will be debated and voted on in the order they were proposed. Each vote must be a recorded vote.
 - (g) After each opposition group alternative Budget or amendments have been voted on, the debate will return to the substantive motion - the

Administration's Budget - which may or may not have been amended. All members of the Council are allowed to contribute to the debate, except the mover or seconder of the original motion (unless the seconder has reserved their right to speak).

- (h) No further amendments are allowed at this stage by any of the members of the Council.
- (i) After the debate on the substantive motion, the mover of the Administration's Budget has a right of reply (up to 5 minutes). A recorded vote must then be taken on the substantive Budget (which may have been amended) and the debate is concluded.
- (j) A Member may not vote on the Council's Budget if they have an outstanding council tax debt of over two months. If a Member with such a debt is present at any meeting at which relevant budgetary matters are discussed, they must disclose the fact and may not vote. Failure to comply is a criminal offence.²⁵

5 SPECIAL MEETINGS

- 5.1 A Special meeting of the Council is one that is required by statute, e.g. for the appointment of Honorary Aldermen or Alderwomen or to award Honorary Freedom of the City, and shall only consider a single substantive item of business. The meeting shall be convened for the specific statutory purpose contained in the summons. No other business may be transacted at that meeting.

6 MAYOR AND DEPUTY MAYOR OF THE COUNCIL

- 6.1 The Mayor, or in their absence the Deputy Mayor (who will have the same powers and duties as the Mayor), will preside at meetings of the Council. Where both the Mayor and Deputy Mayor are absent, the Council will appoint another councillor, other than a Cabinet Member, to chair the meeting, who will have the same powers and duties as the Mayor.
- 6.2 If it is necessary to choose a Member to preside in the absence of the Mayor and Deputy Mayor, the Monitoring Officer (or their nominee) shall preside and call for a motion that a Member take the chair.

7 QUORUM

- 7.1 The quorum of Council meetings will be one quarter (rounded up) of the total membership (13). During any meeting, if the Mayor counts the number of councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If the Mayor does not fix a date, the remaining business will be considered at the next Ordinary meeting.

²⁵ Section 106 of the [Local Government Finance Act 1992](#)

8 TIME, PLACE AND DURATION OF MEETINGS

- 8.1 Full Council meetings are held in the Council Chamber and start at 6.00pm unless the Council or the Mayor decides otherwise. Any changes to the date, time and place of meetings or cancellation of meetings will be determined by the Chief Executive in consultation with the Mayor.
- 8.2 The Mayor shall interrupt proceedings where any meeting has lasted for three hours, whereupon all Members shall stop speaking. The Mayor shall, without discussion, take a vote on whether or not the Members wish the meeting to continue.
- 8.3 If the majority of Members present vote to continue the meeting, then a further vote on whether or not to continue the meeting will take place on an hourly basis thereafter.
- 8.4 If the majority of Members present do not vote to continue the meeting, and there are outstanding matters that have not been dealt with by that time, each item will be put to the vote without further debate and an unrecorded vote will be taken on whether the item should be accepted, referred, deferred or rejected.
- 8.5 Any proposal to refer, defer or reject an item that has not yet been dealt with must be moved and seconded before any vote is taken. If such a proposal is made, it shall be voted on without debate.

9 SUSPENSION, VARIATION, REVOCATION AND INTERPRETATION OF PROCEDURE RULES

- 9.1 Any motion to vary or revoke these Procedure Rules shall, when proposed and seconded, stand adjourned without discussion to the next Ordinary meeting of the Council.
- 9.2 Procedure Rules may be suspended in respect of any business at a meeting of the Council where its suspension is moved and seconded, except where this would be in contravention of statute.
- 9.3 A motion to suspend Procedure Rules shall not be moved without notice unless there are present at least one-third of the Members of the Council.
- 9.4 The ruling of the Mayor as to the construction or application of Procedure Rules, or as to any proceedings of the Council, shall not be challenged. The Mayor may consult with the Monitoring Officer or their nominee on any question of interpretation.

10 ORDER OF BUSINESS

- 10.1 Business shall be dealt with in the order in which it is set out in the agenda unless the Mayor decides otherwise.

11 CONFIRMATION OF MINUTES AND DECLARATIONS OF INTEREST

- 11.1 Minutes of the last Council meeting shall be confirmed at the next Ordinary meeting of the Council.
- 11.2 Only matters relating to the accuracy of the minutes can be raised, which must be done by way of a motion which is proposed, seconded and voted upon. Where no issues are raised, or after the motion has been dealt with, the Mayor shall initial each page and sign the minutes²⁶.
- 11.3 Any Member with a disclosable pecuniary interest in a matter being discussed should declare the nature of the interest and withdraw from the meeting during the item.
- 11.4 Any Member with a non-disclosable pecuniary interest or non-pecuniary interest in a matter being discussed should declare the nature of the interest and, if a member of a public acting reasonably would consider the interest such as to affect the Member's ability to make the decision in the public interest, they should withdraw from the meeting during the item.

12 MOTION TO REMOVE THE LEADER

- 12.1 A motion to remove the Leader from office may only be:
 - (a) Made at an Extraordinary meeting convened specifically for that purpose not less than 21 days from the submission of the motion;
 - (b) Submitted in the form of a requisition signed by a majority of the largest political group (where that group holds a majority of seats on the Council).
- 12.2 Where there is no majority on the Council, the requisition must be signed by not less than one third of the members of the Council with members from at least two political groups.
- 12.3 Where the Council passes a resolution to remove the Leader, a new Leader is to be elected at the meeting at which the Leader is removed from office.

13 DEPUTATIONS

- 13.1 A maximum of two deputations may be received at any Ordinary meeting of the Council, provided that:
 - (a) Notice is received in writing by the Chief Executive at least seven clear working days before the meeting, giving the subject to be raised, the contact details of the person or organisation who will address the meeting, and signed by at least five registered local government electors of the City.

²⁶ Sch.12 para.41(2) [Local Government Act 1972](#).

- (b) The subject relates to a power or duty exercised by the Council or seeks the support of the Council in influencing other public bodies;
- (c) The subject is not related to a specific planning, licensing or other application under consideration by the Council;
- (d) The subject does not raise an issue of conduct by Members or officers, or names or clearly identifies any individual;
- (e) The subject does not relate to legal proceedings or raise an issue in the nature of a complaint;
- (f) The subject does not relate to the appointment, promotion, dismissal, remuneration, conditions of service or conduct of officers;
- (g) The subject is not, in the opinion of the Monitoring Officer, defamatory, vexatious, frivolous or offensive;
- (h) The subject does not require the disclosure of confidential or exempt information;
- (i) They are not on the same or a similar subject to a deputation heard in the last six months;
- (j) They are not from, nor on behalf of, political parties, nor bear the name, insignia or other device of a political party.

13.2 In circumstances where notice of more than two deputations is received, the Chief Executive will select two to be heard having due regard for the timeliness and relevance of the subject to the Council and the City of Derby. Those deputations not selected will not be carried forward to subsequent meetings.

13.3 A deputation may consist of up to five people, of whom no more than three may speak, except to answer Members' questions.

13.4 A maximum of ten minutes will be allotted to each deputation; five minutes for the deputation to address the meeting and five minutes for Members to ask questions.

13.5 There shall be no debate on any matter raised by a deputation, but any Member may move without notice a motion for the manner in which the Council should dispose of the item.

13.6 After the deputation has spoken and Members have asked questions, the Leader (or another Member nominated by them) may speak for up to three minutes responding to the points raised by the deputation.

13.7 The issue in question may be referred to the relevant Cabinet Member and Service Director for attention.

14 PETITIONS

- 14.1 The Council has adopted a Petitions Scheme and details of this such as: the purpose of a petition, the eligibility criteria, relevant thresholds for making petitions, the procedure and review mechanisms can be found on the Council's website ([Petitions \(derby.gov.uk\)](https://petitions.derby.gov.uk)).

15 PUBLIC QUESTIONS

- 15.1 At Ordinary meetings of the Council, questions may be asked by members of the public of the Leader, Cabinet Members or Committee Chairs.
- 15.2 The total time set aside for such questions and answers will be limited to 30 minutes with no extension of time, and questions not dealt with in this time will be dealt with by written responses.
- 15.3 No person may submit more than one question at any one meeting and no more than two questions may be asked on behalf of any one organisation.
- 15.4 Questions must be submitted in writing at least five clear working days before the meeting and include the name and address of the questioner and the name of the Member or body to which the questioner would like the question put. Questions so received will be referred to the Monitoring Officer for consideration and inclusion at a meeting.
- 15.5 The Monitoring Officer may reject a question if it:
- (a) is not about a matter for which the Council has a responsibility or which specifically affects the City;
 - (b) is defamatory, vexatious, frivolous or offensive;
 - (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
 - (d) requires the disclosure of confidential or exempt information;
 - (e) refers to legal proceedings taken or anticipated by or against the Council;
 - (f) relates to a decision of the Planning Control Committee, the Standards Committee or the Licensing Committee on a specific application, review or similar matter;
 - (g) relates to a day-to-day council function or the provision of a council service and has not been asked first of the relevant service area, ward councillor or Cabinet Member;
 - (h) is not related to policy or budget issues;
 - (i) is a statement rather than a question;

- (j) names or identifies individual service users, members of staff or members/staff of partner agencies;
 - (k) makes or relates to allegations against, or comprise comments about, the conduct of individual Members or officers;
 - (l) relates to an individual or the questioner's own particular circumstances;
 - (m) would more appropriately be responded to under the Freedom of Information Act 2000 or the Data Protection Act 1998;
 - (n) is from, or on behalf of, a political party, or bears the name, insignia or other device of a political party.
- 15.6 All approved questions will be listed in the summons for the meeting of the Council in the order that they were received (except the Mayor may decide to group similar questions together).
- 15.7 Those persons who submitted questions and who are present at that meeting of the Council will be invited to read aloud the questions put. Questioners may by written notice nominate a substitute to ask a question in their place. No supplementary questions are allowed.
- 15.8 If a member of the public or their nominated substitute who has submitted notice of a question is unable to be present at the meeting, the question falls. However, the Council will nevertheless provide a written response to the questions put.

16 MEMBERS' QUESTIONS

- 16.1 At Ordinary meetings of the Council, questions may be asked by elected Members of the Mayor, members of Cabinet or chairs of committees about any matter specifically affecting the City. Recipients of questions have the right to delegate them to other Members for response if they deem it appropriate to do so.
- 16.2 The total time set aside for such questions and answers will be limited to 30 minutes with no extension of time, and questions not dealt with in this time will be dealt with by written responses.
- 16.3 Questions must be received by Democratic Services in writing by midday at least five clear working days before the date of the meeting. The notice should indicate whether the Member requires a written answer only.
- 16.4 The Monitoring Officer may reject a question on any of the grounds set out in 15.5 (a) to (n).
- 16.5 Questions are limited to one per Member per meeting, unless the time taken by questions has not exceeded 30 minutes, in which case second questions will be taken in the order that they are received.

- 16.6 The Mayor shall invite questions from Members in such an order as to ensure that each political group and independent Members are permitted to ask a question in rotation.
- 16.7 Questions will be asked and answered without debate.
- 16.8 If the Member asking a question is not present at the meeting, the question shall fall.
- 16.9 The person to whom a question has been put may ask another Member to respond or may decline to answer.
- 16.10 Answers should provide a full response to questions in a succinct way. If the reply cannot be given at the meeting, a written answer will be provided to the questioner within 10 working days of the meeting.

17 LEADER'S REPORT

- 17.1 The Leader shall prepare a report of the business of the Cabinet for each Ordinary meeting of the Full Council, detailing their activities since the last meeting and proposals for the future. In presenting the report, the Cabinet will have 15 minutes to make any statements relating to the report.
- 17.2 Following the presentation of the Leader's report, any Member may ask a question of the Leader arising from the report, which may be answered by the Leader or another Cabinet Member nominated by the Leader, provided that the question is not one which is to be put under Procedure Rule 16. Every question should be put and answered without discussion.
- 17.3 This item of business shall not last longer than 30 minutes unless, in the view of the Mayor or on a motion moved by a Member, seconded and approved by Full Council without discussion, it is deemed appropriate to extend the time. In this event, the Mayor shall specify the duration of the extension.

18 MOTIONS ON NOTICE

- 18.1 **Notice.** Except for Procedural Motions which can be moved without notice, written notice of every motion, signed by at least one Member, must be delivered to Democratic Services, not later than midday, at least seven clear working days before the date of the meeting.
- 18.2 Motions for which notice has been given will be listed on the agenda in the order in which they were received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.
- 18.3 No more than one motion may be proposed by any individual Member for each meeting.
- 18.4 **Scope.** Each motion must:
 - (a) clearly and succinctly identify the matter to be debated;

- (b) be capable of being passed as a formal resolution; and
 - (c) be about matters for which the council has a responsibility or which specifically affect the City.
- 18.5 The Mayor may, following consultation with the Monitoring Officer, reject a motion which, in their opinion:
- (a) is irrelevant, defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper;
 - (b) refers to legal proceedings taken or anticipated by or against the Council;
 - (c) requires the disclosure of confidential or exempt information;
 - (d) names or identifies specific service users, members of staff or members of staff of partner organisations without the mover demonstrating they have provided consent;
 - (e) relates to the Member's own personal circumstances;
 - (f) expresses support or objection to proposals where the Council is in the process of consulting with the public or responding to a formal consultation process.
- 18.6 **Alteration.** A proposer may alter a motion on which they have given notice when they come to move it, in which case the amendment becomes part of the substantive motion without debate. Only alterations that could be made as an amendment may be made.
- 18.7 **Withdrawal.** Where a motion on notice is before the Council having been formally moved and seconded, the mover may subsequently withdraw it only with the consent of the seconder and the meeting. The meeting's consent will be signified without discussion. No member may speak on the Motion after the proposer has asked permission to withdraw it unless permission is refused.
- 18.8 **Motions not moved.** If a motion set out in the summons is not moved either by the Member who gave notice of it or by some other councillor on their behalf, it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.
- 18.9 **Rescission of earlier resolutions.** No motion or amendment may be proposed to rescind any resolution of the Council passed within the preceding six months, or which is to the same effect as one which has been rejected within that period, unless:
- (a) It is proposed by the Cabinet or a committee;
 - (b) It is required to comply with a statutory duty; or

- (c) Notice of such motion has been given and signed by at least one third of the total number of councillors (17), who include members from more than one political group.

19 AMENDMENTS

19.1 An amendment to a motion must:

- (a) Be relevant to the motion;
- (b) Add and/or delete a word or words;
- (c) Not introduce a new topic;
- (d) Not negate the motion;
- (e) Be worded so that, if it is agreed by the council, it can be passed as a valid resolution.

19.2 The Mayor, following consultation with the Monitoring Officer, may reject an amendment on the grounds set out in Rule 18.5 or 18.9. An amendment will not be accepted if it is substantially the same as a motion or amendment which has already been submitted to the same meeting of the Council.

19.3 Notice of Amendments. Amendments to the Budget or Policy Framework must be received by the Director of Finance or Director of Corporate Management respectively at least five clear working days before the meeting. Amendments to a motion on notice shall be submitted in writing to the Monitoring Officer not less than two clear days before the start of the meeting.

19.4 The Mayor may consent to the consideration of an amendment to the Budget or Policy Framework or a motion on notice with less than the required period of notice in circumstances where urgent consideration may be necessary. In doing so, the Mayor will consider the advice of the Monitoring Officer and Chief Finance Officer on questions of the legality and financial viability of any proposed amendment.

19.5 Once an amendment to a motion on notice is proposed and seconded, the Mayor will ask the mover of the original motion to indicate if they agree to accept the amendment. If so, the amendment becomes part of the substantive motion without debate.

19.6 Number of Amendments. Only one amendment may be moved and discussed at a time. No further amendment shall be moved until the amendment under discussion has been disposed of.

19.7 Status of Amendments. If an amendment is lost, another amendment may be moved on the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.

- 19.8 After all amendments have been considered and determined there shall be an opportunity for further debate on the original motion, as amended or otherwise as the case may be, prior to the taking of a vote.

20 MOTIONS AND AMENDMENTS THAT MAY BE MOVED WITHOUT NOTICE

- 20.1 **Procedural motions.** The following motions and amendments may be moved without notice:

- (a) Elect a chair of the meeting at which the motion is made;
- (b) Relating to the accuracy of the minutes of the Council, a committee or sub-committee;
- (c) For a change in the order of business;
- (d) Extending the time limit for speeches;
- (e) That the meeting proceeds to the next business;
- (f) That the question be now put;
- (g) That the debate be now adjourned;
- (h) That the meeting does now adjourn;
- (i) To suspend Procedure Rules;
- (j) Giving consent where consent of the Council is required by the Procedure Rules.
- (k) Reference of a matter to the Council, a committee, sub-committee or the Cabinet;
- (l) Appointment of or appointment to committees, sub-committees or the Cabinet occasioned by an item mentioned in the summons to the meeting;
- (m) That a councillor should not be heard further or should leave the meeting;
- (n) Adoption of recommendations of the Cabinet, committees and sub-committees and any consequent resolutions;
- (o) That leave is given to withdraw a motion;
- (p) That leave is given to alter a motion by the mover of that motion;
- (q) Receipt of reports of officers and any consequent resolutions;

- (r) Amendment to reports of which notification has been included within the summons of the meeting but where the reports were circulated at a later date than the summons;
- (s) Authorising the sealing of documents;
- (t) To exclude the press and public²⁷.

20.2 **Closure motions.** Motions designed to close a debate, e.g. (e)-(h) above, may be moved provided no-one else is speaking at the time. Closure motions cannot be moved by anyone who has moved, seconded or already spoken in the debate. No person may intervene in discussion on a motion by moving more than one closure motion.

20.3 When one of the following motions has been seconded, the Mayor shall proceed as follows:

- (a) **On a motion to proceed to next business** - unless in their opinion the matter before the meeting has been insufficiently discussed, they shall first give the mover of the original motion the right of reply, and then put to the vote the motion to proceed to next business.
- (b) **On a motion that the question be now put** - unless in their opinion the matter before the meeting has been insufficiently discussed, they shall put to the vote the motion that the question be now put and, if it is passed, give the mover of the original motion the right of reply before putting the motion to the vote.
- (c) **On a motion to adjourn the debate or the meeting** - if in their opinion the matter before the meeting has been insufficiently discussed on that occasion, they shall put the adjournment motion to the vote without giving the mover of the original motion the right of reply on that occasion.
- (d) **On a motion to exclude the public** - they shall ascertain the grounds for the motion and seek the advice of the Monitoring Officer. If members of the public may be lawfully excluded, the Mayor will allow the mover of the original motion a right of reply on the proposal to exclude the public and then put the motion to the vote. If it is passed, the Mayor may, at their discretion, either immediately require the public to leave the room or adjourn the debate until some convenient time later in the meeting when the public shall have been excluded.
- (e) **On a motion that a named Member be not further heard or leave the meeting** - they shall put the motion to the vote without discussion. If it is passed, the named Member shall not be permitted to speak again during the meeting on any motion or amendment relating to the same matter, or shall be required to leave the room.

²⁷ Section 100A(4) of the Local Government Act 1972 (as amended).

21 RULES OF DEBATE

- 21.1 **Motions and Amendments.** No motion or amendment shall be discussed unless it has been proposed and seconded. Where required by the Mayor, motions or amendments shall be put in writing and handed to the Mayor before they are further debated or put to the meeting.
- 21.2 **Seconders' Speech.** When seconding a motion or amendment, a Member may advise the Mayor that they will reserve their right to speak until a later period in the debate.
- 21.3 **Only one councillor to stand at a time.** When speaking, a Member shall, if possible, stand and address the Mayor. While a Member is speaking, the other Members will remain seated, unless rising on a point of order or personal explanation.
- 21.4 **Content and length of speeches.** A Member will confine their speech to the question under discussion, a personal explanation or a point of order. Subject to rule 4.8, all speeches shall not exceed five minutes.
- 21.5 **When a councillor may speak again.** A councillor who has spoken on any motion shall not speak again whilst it is the subject of debate, except:
- (a) To speak once on an amendment moved by another councillor;
 - (b) If the motion has been amended since they last spoke, to move a further amendment;
 - (c) If their first speech was on an amendment moved by another councillor, to speak on the main issue, whether or not the amendment on which they spoke was carried;
 - (d) Where the mover of a motion exercises their right to reply:
 - (i) at the close of the debate on the motion, immediately before it is put to the vote;
 - (ii) if an amendment is moved, at the close of the debate on the amendment (but they shall not otherwise speak on it). The mover of an amendment shall have no right of reply to the debate on their amendment.
 - (e) On a point of order referring to a specific Procedure Rule or statutory provision (which must be cited on rising);
 - (f) By way of personal explanation;
 - (g) At committees or sub-committees, where councillors may, at the discretion of the Chair, speak more than once.

22 POINTS OF ORDER AND PERSONAL EXPLANATIONS

- 22.1 A councillor may rise (or where necessary, instead raise their hand) on a point of order or in personal explanation and shall be entitled to be heard immediately. A councillor raising a point of order must specify a Procedure Rule or statutory provision and the way in which they consider it has been breached.
- 22.2 A personal explanation shall be confined to some material part of a former speech by them which may appear to have been misunderstood or misquoted in the current debate.
- 22.3 The Mayor will hear the Member and give a ruling on the point of order or the admissibility of the personal explanation before the debate continues. The Mayor may consult on any question of interpretation with the Monitoring Officer or their nominee prior to making a ruling. The ruling of the Mayor on the matter shall not be open to discussion and will be final.

23 VOTING

- 23.1 Each councillor has one vote.
- 23.2 Unless this Constitution (or the law) provides otherwise, any matter will be decided by a simple majority of those present and voting in the room at the time the question was put.
- 23.3 Unless a recorded vote is demanded, voting will be by a show of hands, by electronic means or, if there is no dissent, by the affirmation of the meeting.
- 23.4 **Recorded vote.** When a councillor asks for a recorded vote to be taken, and 10 members of the Council (or one quarter of a committee) stand in their places to support the request, the vote will be recorded to show whether each councillor voted for or against the motion or abstained. Recorded votes are always taken at the Council Budget decision meeting and setting of Council Tax²⁸.
- 23.5 A Member may require, immediately after a vote is completed, that the minutes of the meeting record how they voted or abstained.
- 23.6 **Casting vote.** Where there are equal votes cast for and against a motion or amendment, the Mayor may exercise a second or casting vote. There will be no restriction on whether or how the Mayor chooses to exercise a casting vote. If there are equal numbers of votes for and against and the Mayor chooses not to exercise their casting vote, then the matter to be determined shall fall.
- 23.7 **Offices and appointments.** If on a vote no person receives more than half of the votes cast, the name of the person with the fewest number of votes will be withdrawn. Further votes will be held until one person receives a clear majority.

²⁸ [Local Authorities \(Standing Orders\) \(England\) \(Amendment\) Regulations 2014](#)

- 23.8 **Election of chairs of committees and sub-committees.** The chair and vice-chair of each committee and sub-committee (excluding the Cabinet) will be elected at the Annual Council meeting where possible. The councillor elected to each office must be a member of the relevant committee or sub-committee. Where a vacancy occurs in any office, an election will be held at the next meeting of the committee or sub-committee concerned.

24 URGENT BUSINESS – NON-EXECUTIVE MATTERS

- 24.1 An item of urgent business which has to be decided before the next meeting of the Council and which does not fall within the Executive's functions and responsibilities can be determined by the Head of Paid Service, subject to the procedure set out below:
- (a) Where any matter is urgent and cannot await the next meeting, the Head of Paid Service may take the necessary action, provided that they have first consulted the relevant chair (or vice chair if the chair is not available).
 - (b) A copy of the consultation document shall be sent to the relevant Cabinet Member, the Chair of the relevant Overview and Scrutiny Board, the political group leaders and the councillors for the area concerned, if the matter specifically affects one or more electoral ward.
 - (c) Any such action shall be recorded in writing, consideration being given after consultation with the Chief Finance Officer and the Monitoring Officer.
 - (d) The Monitoring Officer shall supply details of any decision or action taken by the Head of Paid Service under these provisions to the next Ordinary meeting of the Council.
 - (e) A report of any action under this Procedure Rule shall be made available to all councillors.

25 MATTERS AFFECTING OFFICERS

- 25.1 If any question arises at a meeting at which the public are in attendance as to the appointment, promotion, dismissal, remuneration, pension matters, conditions of service or conduct of any person employed by the Council, such question shall not be the subject of discussion until the Council has decided whether or not to exclude the public.

26 CONDUCT AT MEETINGS

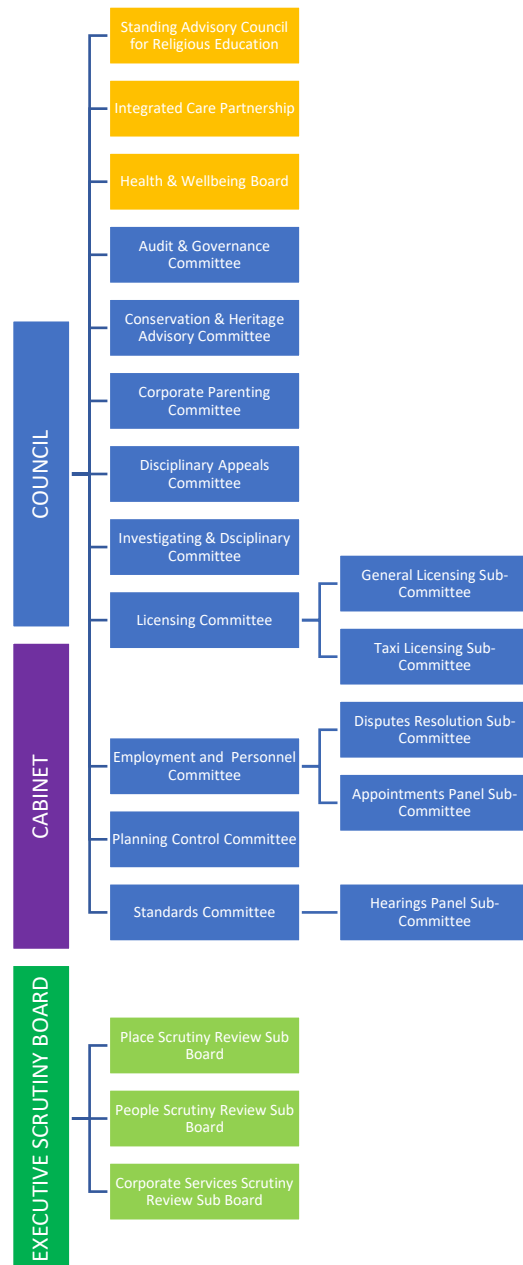
- 26.1 Whenever the Mayor rises during a debate at a Council meeting, any councillor then standing shall sit down and the Council shall be silent.
- 26.2 Mobile phones and other electronic devices must be switched to 'silent' during meetings.

- 26.3 Filming or recording of any meeting of the Council is permitted, subject to the following:
- (a) Filming or recording is done openly.
 - (b) That the Mayor has been notified at the commencement of the meeting.
 - (c) That anybody attending the meeting, with the exception of Members and officers, may request not to be filmed or recorded.
 - (d) Filming or recording may only take place when members of the public are entitled to attend in person.
- 26.4 Placards are not permitted during meetings.
- 26.5 **Member not to be heard further.** If a Member persistently disregards the ruling of the Mayor by continued irrelevance or repetitions, by behaving improperly or offensively, or by wilfully obstructing the business of the Council, the Mayor may direct the Member to stop speaking. If, following a direction from the Mayor to stop speaking, the Member continues to speak, the Mayor (or any other councillor) may move that the Member be not heard further. If seconded, the Mayor shall put the motion to the vote without discussion and if passed, the Member shall not be permitted to speak on the same matter again during the meeting.
- 26.6 **Member to leave the meeting.** If a Member persistently disregards the ruling of the Mayor by continued irrelevance or repetitions, by behaving improperly or offensively, or by wilfully obstructing the business of the Council, the Mayor may request them to leave for the remainder of the meeting or for any lesser period. If following a request to leave the meeting, the offending Member does not leave, the Mayor (or any other councillor) may move that the Member named leave the meeting. The motion shall be put and, if seconded, voted upon without discussion. If carried, the Mayor shall give directions for the removal of the Member and such other directions as are necessary for restoring order to the proceedings.
- 26.7 **Removal of member of the public.** If a member of the public interrupts proceedings, causes a disturbance or behaves improperly, offensively, or wilfully obstructs the business of the Council, the Mayor will warn the person concerned. If the member of the public, having been warned, continues their conduct, the Mayor may order their removal from the meeting room.
- 26.8 **General disturbance.** If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as they think necessary.

4. COMMITTEES

Committee Structure

- 4.1 The Council appoints various committees, sub-committees and boards to undertake a range of Non-Executive functions. This diagram shows the overall committee structure of the Council:



- 4.2 Details of meetings of the Council's committees, including access to agendas, reports and minutes are available to view on the Derby City Council [Democracy Portal](#).

Audit & Governance Committee

- 4.3 The Audit and Governance Committee's purpose is to provide an independent and high-level focus on the adequacy of governance, risk and control arrangements. Its role in ensuring there is sufficient assurance over governance, risk and control gives greater confidence to all those charged with governance that those arrangements are effective.

The committee has oversight of both internal and external audit, together with the financial and governance reports, helping to ensure there are adequate arrangements in place for both internal challenge and public accountability.

- 4.4 The Committee will meet at least four times a year. The Chair of the committee may convene additional meetings as they deem necessary. The Head of the Paid Service, Section 151 Officer or the Head of Internal Audit may ask the Committee to convene further meetings to discuss particular issues.
- 4.5 The Audit and Governance Committee comprises nine elected members and four independent non-voting co-opted members, and is authorised to discharge the following functions:

Governance, Risk, Control

- a) To review the council's arrangements for corporate governance against the good governance framework including the ethical framework and consideration of the local code of governance.
- b) To maintain an overview of the council's constitution including contract procedure rules, financial procedure rules and codes of conduct and behaviour.
- c) To review any issue referred to it by the chief executive or a strategic director, or any council body.
- d) To consider, approve and monitor the Council's risk management framework and to seek assurances on its effectiveness.
- e) To consider the Council's arrangements for the mitigation of risk including receiving assurance on the adequacy of the Council's Insurance portfolio.
- f) To review, approve and monitor the Council's Counter Fraud policies and Whistleblowing Policy, and to seek assurance on the assessment of fraud risks and the potential harm to the Council from fraud, bribery and corruption.
- g) To monitor progress in addressing risk-related issues reported to the Committee.
- h) To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions through the work of internal audit.

- i) To consider reports on the effectiveness of financial management arrangements, including compliance with CIPFA's Financial Management Code, financial sustainability and the budgetary process.
- j) To consider the council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- k) To consider the council's compliance with its own and other published standards and controls.
- l) To review the governance and assurance arrangements for any Council owned companies, significant partnerships or other collaborations.
- m) To consider reports from external regulators (e.g. Ofsted, Care Quality Commission, Local Government Ombudsman) that impact on the Committee's areas of responsibility and to receive an annual report providing an overview of all external regulator activity at the Council during the year.
- n) To consider the exercise of officers' statutory responsibilities and of functions delegated to officers.

Financial and governance reporting

Governance reporting

- (a) To review the Annual Governance Statement (AGS) prior to approval and consider whether it properly reflects the risk environment and supporting assurances, including the head of internal audit's annual opinion.
- (b) To consider whether the annual evaluation for the AGS fairly concludes that governance arrangements are fit for purpose, supporting the achievement of the authority's objectives.

Financial reporting

- a) To monitor the arrangements and preparations for financial reporting to ensure that statutory requirements and professional standards can be met.
- b) To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
- c) To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

Arrangements for audit and assurance

To consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.

Internal Audit

- a) To consider and approve the annual internal audit plan, including internal audit's resource requirements.
- b) To approve the internal audit charter
- c) To approve significant interim changes to the annual audit plan and resource requirements.
- d) To consider (periodic) reports from the Head of Internal Audit on internal audit's performance during the year. These will include;
 - i) updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work,
 - ii) regular reports on the results of the Quality Assurance and Improvement Programme (QAIP),
 - iii) reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards (PSIAS) and Local Government Application Note (LGAN), considering whether the non-conformance is significant enough to be included in the AGS.
- e) To consider the Head of Internal Audit's annual report, including
 - i) the statement of the level of conformance with the PSIAS and LGAN and the results of the QAIP that support the statement
 - ii) the opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control together with the summary of the work supporting the opinion.
- f) To consider summaries of specific internal audit reports as requested.
- g) To consider reports dealing with the management and performance of the providers of internal audit services.
- h) To consider reports outlining the action taken where the Head of Internal Audit has concluded that management has accepted a level of risk that may be unacceptable to the Council or there are concerns about progress with the implementation of agreed actions.
- i) To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.
- j) To consider any impairments to the independence or objectivity of the head of internal audit arising from additional roles or responsibilities outside of internal auditing and to approve and periodically review safeguards to limit such impairments

- k) In conjunction with the Council's s151 Officer, to commission work from internal audit.
- l) To contribute to the QAIP and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
- m) To consider a report on the effectiveness of internal audit to support the AGS, where required to do so by the Accounts and Audit Regulations.
- n) To provide free and unfettered access to the Chair of Committee for the Head of Internal Audit, including the opportunity for private meetings with the Committee.

External Audit

- a) To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by the Public Sector Audit Appointments Limited (PSAA) or the Financial Reporting Council (FRC).
- b) To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance and such specific reports as are agreed with external audit.
- c) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- d) To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies
- e) In conjunction with the Council's s151 Officer, to commission work from external audit.
- f) To provide free and unfettered access to the Chair of the Committee for the External Auditor, including the opportunity for private meetings with the Committee.

Treasury Management

- a) To consider the robustness of the Council's treasury management strategy, policies and procedures before their submission to Cabinet, to ensure that controls are satisfactory.
- b) To review the treasury risk profile and adequacy of the treasury management procedures.

Accountability Arrangements

- a) To present an annual report on the work of the Committee to the Council, including a conclusion on the compliance with the CIPFA Position Statement,

the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.

- b) To report to full council where necessary providing an opinion on the adequacy and effectiveness of the Council's governance, risk and control frameworks.

Conservation & Heritage Advisory Committee

4.6 The Conservation & Heritage Advisory Committee comprises three elected members, with representatives from heritage and relevant local groups, and is authorised to discharge the following functions:

- (a) To consider applications for planning permission and related consents which could affect the significance, character, appearance or setting of a World Heritage Site, Conservation Area, listed buildings of architectural or historic interest, ancient monuments and other sites of archaeological interest, and to give appropriate advice on such matters to the Planning Control Committee and/or the service director in the appropriate council department;
- (b) To consider and give advice including confidential pre-application advice on planning applications and proposals impacting Heritage Assets, when directed by the Chief Planning Officer.
- (c) To consider proposals for new Conservation Areas and for the extension or alteration of the boundaries of existing ones;
- (d) To make recommendations to the appropriate Strategic Director for action in existing and proposed Conservation Areas and in relation to Listed Buildings at risk;
- (e) To foster interest within the Derwent Valley Mills World Heritage Site, in Conservation Areas, listed buildings of architectural or historic interest, scheduled ancient monuments and archaeological sites;
- (f) To encourage positive action by private individuals both acting alone and in support of the actions to be carried out by the Council, including the operation of award schemes approved by the Planning Control Committee.

Corporate Parenting Committee

4.7 The Corporate Parenting Committee comprises seven elected members and is authorised to discharge the following functions:

- (a) To consider matters relating to the council's duties in respect of looked after children, including the role of elected members and the authority as a whole as 'Corporate Parents', including:
 - (i) Receiving updates and making recommendations that may arise in relation to:

- Children In Care Council
- Children Rights Service
- Children Missing From Care
- Care Leavers Forum and Leaving Care Audit
- Youth Offending Service report regarding Children in Care
- Integrated LAC Emotional Health and Wellbeing Service
- Education, Employment and Training for care leavers
- Exit from Care Overview Report
- Regional Framework and External Care Providers
- Independent Visitors and Advocacy

(ii) Receive and make recommendations that may arise in relation to:

- Annual Performance Report (and benchmarking report)
- Annual Fostering Report
- Annual Adoption Report
- Annual Health Report
- Independent Reviewing Service Annual Report
- Annual report of the Virtual School Head

(iii) Receiving reports and making recommendations on Children's Homes, including:

- Inspection Reports
- Regulation 33 Reports
- Member Visits

(iv) Considering matters relating to Ofsted, including visits and outcome reports.

Disciplinary Appeals Committee

4.8 The Disciplinary Appeals Committee comprises three elected members (including at least one Cabinet Member) and is authorised to deal with appeals from chief officers employed by the council under Joint Negotiating Committee (JNC) terms and conditions, arising out of disciplinary action taken against them by the Investigating and Disciplinary Committee, in accordance with the Disciplinary Procedures for Chief Officers, set out in [Part 9 of this Constitution](#).

Investigating & Disciplinary Committee

4.9 The Investigating & Disciplinary Committee comprises six elected members, and is authorised to discharge the following functions:

- (a) Be responsible for the investigation of disciplinary matters relating to the Chief Executive and Head of Paid Service, Chief Finance Officer and Monitoring Officer, in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Stand-

ing Orders) (England) (Amendment) Regulations 2015) and the [local procedure set out in Part 9 of this Constitution](#), to be read in conjunction with the model procedure and guidance contained within the Joint Negotiating Committee (JNC) Conditions of Service Handbook for Chief Executives.

- (b) Deal with all matters of discipline relating to Chief Officers employed by the Council under JNC terms and conditions, other than the Head of Paid Service, Monitoring Officer and Chief Finance Officer, in accordance with the [Disciplinary Procedures for Chief Officers and Deputy Chief Officers](#), set out later in the Constitution;
 - (c) Review and make recommendations from time to time to the Council on amendments to the disciplinary procedures. In doing so, the committee must have regard to any changes to the model procedures contained in the JNC Conditions of Service for Chief Executives and the JNC Conditions of Service for Chief Officers, which may be implemented from time to time.
- 4.10 The restriction prohibiting committee meetings from sitting longer than three hours does not apply to this committee, subject to the Committee taking appropriate breaks to ensure the comfort of those participating in the meeting.²⁹
- 4.11 The membership of the Investigating and Disciplinary Committee will:
- (a) Include no fewer than five elected members;
 - (b) Not include any member with a direct personal involvement in the complaint;
 - (c) Be politically balanced;
 - (d) Include at least one member of the Council Cabinet, with not more than half of the members of the IDC to be members of the executive.
- 4.12 The Chair of the committee shall be selected from the members of the committee by majority vote.
- 4.13 In the case of a complaint against:
- (a) The Chief Executive and Head of Paid Service, the decision whether to refer the matter to the Investigating and Disciplinary Committee will be delegated to the Monitoring Officer, in consultation with the Head of Human Resources and Organisational Development

²⁹ Council decision, 17 September 2014.

- (b) The Monitoring Officer or Chief Finance Officer, the decision whether to refer the matter to the Investigating and Disciplinary Committee will be delegated to the Chief Executive and Head of Paid Service, in consultation with the Head of Human Resources and Organisational Development.
 - (c) Non-statutory Chief Officers, the decision whether to refer the matter to the Investigating and Disciplinary Committee will be delegated to the Chief Executive and Head of Paid Service, in consultation with the Head of Human Resources and Organisational Development.
- 4.14 The IDC will have delegated responsibility for the suspension of the relevant statutory officers under the agreed procedures. In cases of urgency, this function is delegated to the Chair of the IDC, in consultation with the Head of Paid Service (in the case of the Monitoring Officer or Chief Finance Officer) or the Chair of the IDC, in consultation with the Monitoring Officer (in the case of the Head of Paid Service). For non-statutory Chief Officers, this function is delegated to the Chief Executive.
- 4.15 The IDC holds delegated responsibility for taking action short of dismissal against the relevant statutory officers under the procedures detailed at Part 9 of the Council Constitution.

Licensing Committee

- 4.16 The Licensing Committee comprises 15 elected members, and is authorised to discharge the following functions:
- (a) Take decisions relating to licensing and appeals functions that would fall within the definition of Key Decisions if these were Executive functions;
 - (b) Approve and amend policies relating to these functions;
 - (c) Approve arrangements for meetings of sub-committees and panels, unless otherwise determined by Council.
 - (d) In relation to licences that cover alcohol, regulated entertainment and other licences granted under the:
 - Licensing Act 2003
 - Local Government (Miscellaneous Provisions) Act 1976
 - Local Government (Miscellaneous Provisions) Act 1982
 - Town Police Clauses Acts 1847
 - Theatres Act 1968
 - Cinema Act 1985
 - Gambling Act 2005
 - Environmental Protection Act 1990 (distribution of literature)
 - Animal Boarding Establishments Act 1963
 - Dangerous Wild Animals Act 1976
 - Breeding of Dogs Act 1973

- Pet Animals Act 1951
- Riding Establishments Acts 1964 and 1970
- Burial Act 1857
- Scrap Metal Dealers Act 1964
- Motor Salvage Operations Regulations 2002
- Vehicles (Crime) Act 2001
- Caravan Sites and Control of Development Act 1960
- Public Health Acts Amendment Act 1907

General Licensing Sub-Committee

4.17 The General Licensing Sub-Committee is a sub-committee of the Licensing Committee. It comprises three elected members selected from the membership of the Licensing Committee, and is authorised to discharge the following functions:

- (a) In relation to licences that cover alcohol, regulated entertainment and other licences granted under the Licensing Act 2003, Local Government (Miscellaneous Provisions) Act 1982 and the Gambling Act 2005, to determine:
 - (i) Applications for a personal licence if there is a police objection;
 - (ii) Applications for a personal licence from persons with an unspent conviction;
 - (iii) The revocation or suspension of a personal licence if the holder is convicted of a relevant offence;
 - (iv) Applications for a premises licence/club premises certificate if a relevant representation is made;
 - (v) Applications for a provisional statement if a relevant representation is made;
 - (vi) Applications to vary a premises licence/club premises certificate if a relevant representation is made;
 - (vii) Applications to vary a designated personal licence holder if there is a police objection;
 - (viii) Applications for a transfer of premises licence if there is a police objection;
 - (ix) Applications for interim authorities if there is a police objection;
 - (x) Applications to review premises licence/club premises certificate;
 - (xi) Whether to object when the local authority is a consultee and not the lead authority; and

- (xii) A police representation to a temporary event notice.
- (b) Carry out all statutory functions as the Licensing Authority with regard to premises licences and permits as stipulated under the Gambling Act 2005 and the Council's Gambling Act Statement of Principles.

Taxi Licensing Sub-Committee

4.18 The Taxi Licensing Sub-Committee is a sub-committee of the Licensing Committee. It comprises 5 elected members selected from the membership of the Licensing Committee, and is authorised to discharge the following functions in relation to hackney carriages and private hire vehicles, their proprietors, operators and drivers:

- (a) Determine individual applications or matters referred to the sub-committee by the Director of Public Protection and Streetpride, unless within Council policies it is an automatic ground of refusal;
- (b) Suspend or revoke licences or issue written warnings;
- (c) Determine appeals by applicants for advertising on hackney carriages who are aggrieved at a decision of the Director of Public Protection and Streetpride;
- (d) Determine individual applications where there is relevant information supplied by the Chief Officer of Police.

Employment and Personnel Committee

4.19 The Employment and Personnel Committee comprises 8 elected members, and is authorised to discharge the following function:

- (a) To approve corporate personnel policies, other than minor or technical changes to existing policies which do not affect the underlying principles of the policies.

Consultation will have taken place with the relevant Trade Unions prior to the policies being considered by the Employment and Personnel Committee, in accordance with any arrangement the Council may adopt from time to time.

Disputes Resolution Sub-Committee

4.20 The Disputes Resolution Committee is a sub-committee of the Employment and Personnel Committee comprising five elected members and is authorised to consider disputes over terms and conditions of employment.

4.21 The procedure for summoning a Disputes Resolution Committee following a referral by the Chief Executive is as follows;

Pre-hearing:

- (a) An appropriate officer, such as the Appeals Panel Officer or another solicitor within the organisation who is not involved in the subject of the dispute, shall act as Clerk to the Disputes Resolution Committee.
- (b) The Clerk to Committee shall contact both parties in relation to the dispute, identifying the points which have been raised requiring determination by the committee and sharing this procedure.
- (c) An appropriate deadline will be set by the Clerk to the Committee by which point both parties must submit a statement of case for consideration by the committee.
- (d) The Clerk to the Committee shall receive both submissions and supply an agenda to all parties five clear working days before the date of the meeting.
- (e) Any communication or submission of information between either party and members of the committee shall take place through the Clerk to the Committee rather than directly.

Parties and evidence at the hearing:

- (f) Parties present shall include:
 - (i) The Disputes Resolution Committee (throughout)
 - (ii) The Clerk to the Disputes Resolution Committee (throughout)
 - (iii) A Democratic Services Officer, or equivalent, for the purpose of taking notes (throughout)
 - (iv) Representative(s) of the trade union (except during deliberation)
 - (v) Representative(s) of the authority (except during deliberation)
 - (vi) Witnesses (only during submission of evidence and resultant questioning).
- (g) Written evidence considered will normally solely consist of paperwork submitted at paragraph C and shared with both parties in advance of the meeting.
- (h) In exceptional circumstances, such as where there has been insufficient notice of the meeting or where the committee request it, additional written evidence may be considered at the discretion of the committee.

The Hearing:

- (a) The trade union will put its case in the presence of the council's representative(s) and may call witnesses.
- (b) The council's representative may question the trade union and witnesses.

- (c) Elected members may question the trade union and their witnesses.
- (d) The council's representative will put the authority's case in the presence of the trade union and may call witnesses.
- (e) The trade union may question the council representative and witnesses.
- (f) Elected members may question the council representative and their witnesses.
- (g) Any witness will withdraw after they have given their evidence and been questioned by both sides and elected members. Either side may recall them, as may the committee should it wish to do so.
- (h) The trade union will then sum up their case.
- (i) The council's representative will then sum up the authority's case.
- (j) Both sides will retire.

Deliberation

- (k) The committee will deliberate in private, supported by the Clerk to the Committee and any officer tasked with taking notes and recording the decision.
- (l) Should any party be recalled at the committee's request, both sides must be given opportunity to return even if only one is concerned with the point in doubt.

Following deliberation:

- (a) The decision shall be communicated in writing within five working days of the meeting.
- (b) In the event of either party wishing to communicate with members of the committee between the deliberation concluding and the decision being formally communicated in writing, such contact shall be made through the Clerk to the Dispute Resolution Committee, and not directly.

Appointments Panel Sub-Committee

- 4.22 The Appointments Panel is a sub-committee of the Employment and Personnel Committee, comprising of at least three members and must include at least one member of the Council Cabinet. The composition of the Panel is to be determined by the Chief Executive (or in the case of the appointment of the Chief Executive by the Monitoring Officer), with each political group recognised by the Council given due opportunity to be represented.
- 4.23 Subject to the Officer Employment Procedure Rules detailed at Part 9 of this Constitution, the Appointments Panel is authorised to:

- (a) make recommendations to Council about the appointment of the Head of Paid Service, Section 151 Officer and Monitoring Officer
 - (b) make appointments of other Strategic Directors and Service Directors, with the exception of the Director of Public Health.
 - (c) Make recommendations to the Secretary of State pursuant to section 73A of the National Health Service Act 2006 (inserted by section 30 of the Health and Social Care Act 2012) for the appointment of the Director of Public Health.
- 4.24 For the appointment of the Director of Public Health, the Appointments Panel shall comprise:
- (a) A councillor to be determined by the Chief Executive;
 - (b) The Chief Executive or their nominated deputy;
 - (c) An external faculty assessor appointed following consultation with the Faculty of Public Health and agreed by Public Health England;
 - (d) The Regional Director of Public Health or their nominated deputy;
 - (e) A senior NHS representative to be determined by the Chief Executive.

Independent Panel

- 4.25 The Independent Panel will consider a recommendation to dismiss the Chief Executive or other statutory officers by the Investigating and Disciplinary Committee under the procedure detailed in [Part 9 of the Constitution](#).
- 4.26 The Independent Panel will comprise at least two independent persons who have been appointed by the Council (or another Council) pursuant to section 28 of the Localism Act 2011.
- 4.27 Appointments to the Panel are required in accordance with the following priority order:
- (a) An independent person who has been appointed by the Council and who is a local government elector in the authority area;
 - (b) Any other independent person who has been appointed by the Council and;
 - (c) An independent person who has been appointed by another council or councils.

Planning Control Committee

- 4.28 The Planning Control Committee comprises 12 elected members, and is authorised to discharge the following functions:

- (a) Decisions relating to town and country planning, commons registration and the use and regulation of highways, that would fall within the definition of Key Decisions if these were Executive functions.
- (b) Determining individual applications for planning permission, advertisement control and any other application made under planning legislation where:
 - (i) 15 or more duly made objections (within 28 days of notification of an application) have been received, which raise material planning considerations and the officer recommendation is to approve permission/consent (objections from the same house or household or family members will be treated as a single objection); or
 - (ii) the application is contrary to a Local Plan allocation and the officer recommendation is to approve; or
 - (iii) a Member of the Council has, within three weeks of being sent notification of an application, written to the Director of Planning, Transportation and Engineering requesting its determination by the Committee, giving reasons for the request. Where the member concerned does not attend the meeting in person, or submit written representations, the application will be deemed to be determined in accordance with the recommendation of the Director of Planning, Transportation and Engineering.
- (c) Dealing with proposals to discontinue the use of land.
- (d) Considering any objections to the making or confirmation of orders made under highways or planning legislation where there have been objections including:
 - (i) tree preservation orders; or
 - (ii) orders to create divert or close footpaths or bridleways; or
 - (iii) to modify the definitive map.

Standards Committee

4.29 The Standards Committee comprises of one elected member from each political group recognised by the Council and four independent non-voting co-opted members, having been excepted from political balance requirements by unanimous resolution of the Council in accordance with Section 17 of the Local Government and Housing Act 1989.

4.30 The Standards Committee is authorised to discharge the following functions:

- (a) Promote and maintain high standards of conduct by councillors, co-opted members and church and parent governor representatives;

- (b) Assist councillors, co-opted members and church and parent governor representatives to observe the Councillors' Code of Conduct;
- (c) Advise the council on the adoption or revision of the Councillors' Code of Conduct;
- (d) Monitor the effectiveness of the Councillors' Code of Conduct;
- (e) Advise the council on the adoption or revision of related codes or protocols;
- (f) Monitor the effectiveness of related codes or protocols;
- (g) Advise on training for councillors, co-opted members and church and parent governor representatives on matters relating to the Councillors' Code of Conduct; and
- (h) Assess and review complaints about members.

Hearings Panel Sub-Committee

- 4.31 The Hearings Panel Sub-Committee is a sub-committee of the Standards Committee. It is authorised to determine the outcome of investigations into alleged breaches of the Councillors' Code of Conduct under the Councillor Complaints Procedure³⁰.
- 4.32 The Hearings Panel Sub Committee will be convened following a referral of a complaint by the Monitoring Officer, following the completion of an investigation.
- 4.33 The membership of the Hearings Panel Sub Committee will be determined by the Monitoring Officer and will comprise of a maximum of five elected members of the Standards Committee or a nominated substitute.

³⁰ [Local Councillor Complaints Procedure \(derby.gov.uk\)](http://derby.gov.uk)

Committee and Sub-Committee Meeting Procedure Rules

1 PROGRAMME OF MEETINGS

- 1.1 Meetings of committees and sub-committees will be set out in the calendar of meetings approved by the Council. Alterations to the date, time and/or venue for meetings, as well as the inclusion of additional meetings, shall only be where it is impracticable to hold the meeting at the usual time and shall be determined by the Chair of each committee as set out in Rule 1.2 below.
- 1.2 When it is necessary to alter the date, time and/or venue of a meeting, or to arrange a special meeting, the Monitoring Officer will consult the Chair of the relevant committee or sub-committee before any action is taken. The Chair of the committee or sub-committee will then determine the matter, undertaking any consultation with the wider committee membership as they consider to be necessary.

2 CHAIRING

- 2.1 Where a Chair and Vice Chair are absent from a meeting of the relevant body, a Chair will be appointed from those members of the body present, provided the meeting is quorate and subject to any restrictions on the eligibility of Executive members for appointment.
- 2.2 In committee or sub-committee meetings, whenever the Chair rises from their seat, the councillors should remain in their seats and the committee or sub-committee shall be silent.

3 QUORUM AT COMMITTEES AND SUB-COMMITTEES

- 3.1 No item of business will be transacted at a meeting of a committee or sub-committee unless there is at least one quarter of the members of the body present, which will in each case be rounded up.
- 3.2 Any variants to Rule 3.1 will be set out in the committee or sub-committee's terms of reference.
- 3.3 In the case of the Licensing Committee and its sub-committees these Rules are subject to and applied as stated in the Licensing Act 2003 (Hearings) Regulations 2005.

4 MINUTES OF COMMITTEES AND SUB-COMMITTEES

- 4.1 The minutes of a committee or sub-committee must be confirmed at its next meeting.
- 4.2 Only matters relating to the accuracy of the minutes can be raised. Where accuracy is questioned, this must be by a motion which is proposed, seconded and voted upon.

- 4.3 Where no issues of accuracy are raised, or after any motion has been dealt with, the Chair shall sign the minutes.
- 4.4 The minutes of any sub-committee must be submitted to the next suitable meeting of the parent committee by the sub-committee Chair.
- 4.5 Members may ask a question or comment on any minute. The Chair of the sub-committee will then reply. There will be no debate on any question or comment raised under this procedure and no further motions can be moved.
- 4.6 Where a Member has a question or comment on an exempt, private or confidential Minute, the question or comment must be given in writing to the Monitoring Officer at least one hour before the start of the meeting.
- 4.7 Any question about the accuracy of any minute of a body must be considered and determined by that body at its next suitable meeting.

5 REQUESTS BY MEMBERS FOR ITEMS OF BUSINESS TO BE INCLUDED ON AGENDAS OF A COMMITTEE OR SUB-COMMITTEE

- 5.1 This Rule sets out details of the process by which a councillor can ask for an item of business to be included on the agenda of a committee or sub-committee meeting.
- 5.2 This Rule does not apply to special meetings of committees and sub-committees or to the Cabinet.
- 5.3 A councillor may, by notice given to the Monitoring Officer no later than ten clear working days before the appropriate meeting, request that an item of business be included on the agenda of a committee or sub-committee.
- 5.4 A councillor may not give notice of more than one item of business for any one meeting. The notice shall state the nature of the business and shall include the name of that councillor.
- 5.5 This procedure shall not apply where the item of business, if agreed, would have the effect of rescinding or amending any resolution passed by a committee or sub-committee of the Council within the preceding 6 months.
- 5.6 Items arising from such notices shall appear on the agenda after the ordinary public or private agenda items.
- 5.7 A member of an Overview and Scrutiny Board has a statutory right to have an item, within the remit of that particular body, included on the agenda and discussed at the next meeting of that body. The restrictions in Rule 5.4 above on the number of items shall not apply to items submitted under this paragraph.

6 COMMITTEE AND SUB-COMMITTEE AGENDAS - URGENT ITEMS OF BUSINESS

- 6.1 Generally, business will only be transacted at meetings of committees and sub-committees which appears on the agenda and which has been available for public inspection at least five clear working days before the meeting or, where the meeting is convened at short notice, from the time the meeting is convened.
- 6.2 The Chair of the committee or sub-committee may agree to deal with an item of business at the meeting if, in their opinion, the matter is urgent given the circumstances requiring a decision. The Chair's ruling and the reasons for urgency will be recorded in the minutes of the meeting.

7 ATTENDANCE OF COUNCILLORS AT COMMITTEES AND SUB-COMMITTEES OF WHICH THEY ARE NOT MEMBERS

- 7.1 Notwithstanding their rights as a member of the public, a councillor may attend any meeting of a committee or sub-committee to which they have not been appointed, for the purposes of performing their duties as a councillor, including when exempt or private and confidential business is transacted.
- 7.2 A councillor will be given, when they arrive at the meeting, a copy of the agenda and relevant papers, subject to any restrictions imposed under the Access to Information Rules.
- 7.3 The councillor has no right to vote but may speak with the consent of the Chair of the meeting.

8 OVERVIEW AND SCRUTINY BOARDS AND SUB-COMMITTEES

- 8.1 In applying these Rules to Overview and Scrutiny Boards and sub-committees, regard shall be had to the Overview and Scrutiny Procedure Rules which are contained in Part 7 of this Constitution.

9 RECORDS OF ATTENDANCE

- 9.1 The Monitoring Officer will keep a record of Members attending any meeting of the Council, the Cabinet, and any committee or sub-committee.

10 DISCLOSURE OF CONFIDENTIAL/EXEMPT MATTERS

- 10.1 No councillor shall disclose to any person the whole or any part of the contents of any agenda or any matter arising during the proceedings, report or other document which is marked "confidential" or "not for publication" unless and until the document has been made available to the public or the press by or on behalf of the Council, the Cabinet, a committee or sub-committee.
- 10.2 All councillors will familiarise themselves and not contravene the Access to Information Rules or the Councillors' Code of Conduct set out within the Constitution.

11 SUBSTITUTE MEMBERS

- 11.1 A member who is unable to attend a meeting will not be allowed to send a substitute or deputy to take their place at the meeting, unless Council has specifically agreed to waive this rule for a particular committee.
- 11.2 For committees where substitution is permitted, substitute members have all the powers and duties (including compliance with any mandatory training requirements) of any appointed member, but are not able to exercise any special powers or duties exercisable by the appointed member.

12 DISORDERLY CONDUCT BY MEMBERS

- 12.1 If at a meeting any councillor, in the opinion of the Chair, misconducts themselves in any way, the Chair or any other councillor may move "That the councillor be not further heard". The motion, if seconded, shall be put and determined without discussion.
- 12.2 If the councillor continues the misconduct, the Chair may either move "That the councillor do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion); or adjourn the meeting.
- 12.3 In the event of general disturbance by councillors at any meeting which, in the opinion of the Chair, renders the due and orderly dispatch of business impossible, the Chair will have the power to adjourn the meeting.

13 DISTURBANCE BY MEMBERS OF THE PUBLIC

- 13.1 If a member of the public interrupts the proceedings at any meeting the Chair shall issue a warning to them. If they continue, the Chair shall order their removal from the meeting.
- 13.2 In cases of general disturbance in any part of the meeting room open to the public, the Chair shall order that part to be cleared or if necessary adjourn the meeting.

14 SUBMISSION OF NOTICES BY MEMBERS – ELECTRONIC MEANS

- 14.1 A councillor may communicate, by electronic means, any notice under any of the Council's Procedural Rules to initiate any process or procedure provided it is clear that the notice has been originated by that Member.

5. EXECUTIVE

The Role of the Cabinet

- 5.1 The functions of a local authority are divided into two broad categories: Executive and non-Executive. The Council and its committees decide non-Executive matters and these are described in Parts 3 and 4 of the Constitution. All other decisions are made by the Executive.
- 5.2 Derby City Council operates a Leader and Cabinet model form of Executive Arrangements. This means that the Council will elect a Leader from among the members of the Council. The Executive will consist of the Leader and at least 2 but not more than 9 other members, one of whom must be appointed Deputy Leader.
- 5.3 The function of determining Executive Portfolios sits with the Executive Leader and can be varied at the discretion of the Leader.
- 5.4 The Mayor and Deputy Mayor of the Council may not be members of the Executive. Further details are set out in the Cabinet Procedure Rules below.

Executive Arrangements

- 5.5 References to 'the Executive' means the Leader and Cabinet, with Executive decisions being taken by the Leader. The Leader may also delegate the authority to exercise those functions or part of those functions to:
 - (a) the Cabinet as a whole;
 - (b) a committee of the Cabinet;
 - (c) an individual Cabinet member;
 - (d) an officer;
 - (e) a Ward Member to the extent that the function is exercisable in relation to their ward³¹
 - (f) an area committee;
 - (g) joint arrangements; or
 - (h) another local authority.
- 5.6 At the Annual Meeting of the Council, the Leader shall present to the Council their proposals for Cabinet delegations, to the extent that they have been formulated at that time. The Leader shall provide to the Monitoring Officer within ten working days of the Annual Meeting a written record of Cabinet delegations made by them for publication, together with notice of the Portfolios

³¹ Section 236 Local Government and Public Involvement in Health Act 2007

to be established. In discharging these responsibilities, the Leader shall have regard to any recommendations of the Monitoring Officer and Chief Executive as to the scope and formation of the Portfolios.

- 5.7 Any amendments to the delegations shall, as they occur, be notified by the Leader in writing within one working day to the Monitoring Officer who shall notify all Members in writing of the amendment and maintain a record of them.
- 5.8 The document presented by the Leader shall contain the following information about Executive functions in relation to the coming year:
- (a) The names and electoral wards of the councillors appointed to the Cabinet by the Leader;
 - (b) The nature of the responsibilities attached to the Portfolios allocated to those appointed to the Cabinet;
 - (c) The extent of any authority delegated to Cabinet Members individually, including details of any limitations on their authority;
 - (d) The terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet Members appointed to them;
 - (e) The nature and extent of any delegation of Executive functions to area committees, any other authority or any joint arrangements and the names of those Cabinet Members appointed to any joint committee for the coming year; and
 - (f) The nature and extent of any delegation to officers or ward members, with details of any limitations on that delegation, and the title of the officer or name of the ward member to whom the delegation is made. This may simply be the endorsement of the Scheme of Delegation approved by Council.

Cabinet Portfolios

- 5.9 Cabinet portfolios showing details of portfolio holders and their key areas of responsibility can be found on the Council's website³² and are set out below:

Councillor Name	Portfolio	Responsibilities
Cllr Baggy Shanker	Executive Leader and Cabinet Member for Strategy, Governance & Finance	Corporate Governance, Procurement and Property <ul style="list-style-type: none"> Legal, Insurance and Information Governance Democracy Procurement Finance <ul style="list-style-type: none"> Corporate Finance

³² [Leadership of the Council - Derby City Council](#)

		<ul style="list-style-type: none"> • Business Partnering • Major Projects • Business Support and Debt Management • Internal Audit Corporate Management <ul style="list-style-type: none"> • Projects and Change • Strategy, Performance and Partnerships • Communications and Marketing • Human Resources and Workforce Development • Policy and Insight
Cllr Nadine Peatfield	Deputy Leader and Cabinet Member for City Centre, Regeneration, Culture & Tourism	City Growth and Vibrancy <ul style="list-style-type: none"> • Regeneration and Economic Growth • Culture and Leisure • Cultural Partnership
Cllr Alison Martin	Cabinet Member for Integrated Health & Adult Care	Public Health <ul style="list-style-type: none"> • Health Inequality Adult Social Care Services <ul style="list-style-type: none"> • Community Support and Frailty • Learning, Disabilities, Autism and Mental Health • Safeguarding and Professional Standards Commissioning and Delivery <ul style="list-style-type: none"> • Adult's Commissioning, Integration and Market Development
Cllr Paul Hezelgrave	Cabinet Member for Cost of Living, Equalities & Customer Inclusion	Communities <ul style="list-style-type: none"> • Community Safety (Cohesion) Digital Infrastructure and Customer Engagement <ul style="list-style-type: none"> • Digital Enablement and Automation • ICT Infrastructure and Cyber Security • Customer Engagement and Registration Services • Accommodation, Facilities and Health & Safety Other <ul style="list-style-type: none"> • Cost of Living Coordination Group • VCS Engagement
Cllr John Whitby	Cabinet Member for Children's Social Care, Learning &	Early Help and Children's Social Care <ul style="list-style-type: none"> • Children's Quality Assurance • Specialist Services • Early Help • Social Care Fieldwork

	Skills	<ul style="list-style-type: none"> Children's Residential Care Learning, Inclusion and Skills <ul style="list-style-type: none"> Inclusion and Intervention Employment, Skills and Adult Education Commissioning and Delivery <ul style="list-style-type: none"> Children's Commissioning, Brokerage and Market Management School Organisation
Cllr Shiraz Khan	Cabinet Member for Housing, Property & Regulatory Services	City Growth and Vibrancy <ul style="list-style-type: none"> Planning Corporate Governance, Property and Procurement <ul style="list-style-type: none"> Property and Consultancy Services Estates and Property Review Communities <ul style="list-style-type: none"> Strategic Housing Regulatory Services Derby Homes <ul style="list-style-type: none"> Derby Advice Housing Options
Cllr Carmel Swan	Cabinet Member for Climate Change, Transport & Sustainability	City Sustainability <ul style="list-style-type: none"> Highways Maintenance Engineering Traffic and Transport Climate and Environment
Cllr Hardyal Dhindsa	Cabinet Member for Communities & Streetpride	Communities <ul style="list-style-type: none"> Streetpride Waste Disposal Community Safety and Localities

Sub-Delegation of Executive Functions

- 5.10 Where the Cabinet, a committee of the Cabinet or an individual Cabinet member is responsible for an Executive function, they may delegate further to an area committee, joint arrangements or an officer.
- 5.11 Unless the Leader directs otherwise, functions delegated to the Cabinet may be delegated further to a committee of the Cabinet or to an officer.
- 5.12 Unless the Leader directs otherwise, functions delegated to a committee of the Cabinet may be delegated further to an officer.
- 5.13 The delegation of Cabinet functions does not prevent the discharge of those functions by the person or body who made the delegation or a person or body with a higher right of delegation.

The Council's Scheme of Delegation and Executive Functions

- 5.14 The Council's Scheme of Delegation shall be subject to adoption by the Council and may only be amended by the Council, save for delegations relating to Executive functions which may be varied by the Leader or in accordance with the authority delegated to the Monitoring Officer.
- 5.15 If the Leader decides to delegate Executive functions, they may amend the Scheme of Delegation relating to Executive functions accordingly at any time during the year. To do so, the Leader must give written notice to the Monitoring Officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the Scheme of Delegation and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole. The Leader shall confirm, through their announcements any changes at the next Ordinary meeting of the Council.
- 5.16 Where the Leader seeks to withdraw delegation from a committee, notice shall be deemed to be served on that committee when served on its Chair.

Cabinet Procedure Rules

MEETINGS OF THE CABINET

- 1.1 The Cabinet will meet as indicated in the Council's programme of meetings. The Cabinet or the Leader may agree to change the date or time of any programmed meeting (subject to compliance with the requirements of the Access to Information Rules), to cancel a meeting where there is insufficient business to be transacted and/or to arrange additional meetings as it/they see fit. Locations of meetings will be published in the calendar of meetings.
- 1.2 The Cabinet may meet in public or in private, subject to legal requirements and the Access to Information Rules.
- 1.3 The Leader or, in their absence, the Deputy Leader will chair meetings of the Cabinet. Where both the Leader and Deputy Leader are absent, the Members present may appoint another Cabinet member to chair that meeting.
- 1.4 All members of the Cabinet shall be entitled to attend meetings of the Cabinet.
- 1.5 Attendance by other Members of the Council or the public shall be in accordance with the Access to Information Rules, by invitation under Rule 1.6 below, or as set out in Rules 4.1 to 4.2 below.
- 1.6 The Cabinet may invite any person it considers appropriate to its meetings to discuss matters of mutual interest or concern or to advise. Such persons may only be given access to confidential and/or exempt information on terms to be decided by the Monitoring Officer so as to ensure that the Access to Information Rules are observed.

QUORUM

- 1.7 No business shall be transacted where at any time during the meeting of the Cabinet, or a committee or sub-committee established by the Cabinet, there are fewer than one third of members of the Cabinet, a committee or sub-committee of the Cabinet present.

TAKING DECISIONS

- 1.8 Cabinet decisions, including those taken under delegated powers, shall not take effect until they have been recorded in writing, as required under the Access to Information Rules, and shall not be implemented where the right of call-in has been exercised until the call-in process has been concluded.

BUSINESS AT CABINET MEETINGS

- 1.9 The business to be transacted at meetings of the Cabinet will be set out in an agenda for the meeting in question, subject to any requirements or exemptions under the Access to Information Rules.

- 1.10 The agenda may be supported by additional reports prepared by officers or by or on behalf of other bodies, subject to requirements in the Access to Information Rules and disclosure of confidential or exempt information.
- 1.11 The Cabinet is obliged to consider matters referred to it by an Overview and Scrutiny Board or by the Full Council.
- 1.12 The Access to Information Rules will apply to notice of meetings, agendas, and access to reports and background papers. In particular, where matters are for decision, the agenda must stipulate whether or not they are Key Decisions.
- 1.13 The Cabinet will, at each formal meeting, confirm the record of decisions taken at its previous meeting.
- 1.14 The Monitoring Officer or their nominee shall be responsible for preparing and distributing the agenda for Cabinet meetings, attending meetings for the purpose of advising the Cabinet on matters relating to the application and interpretation of the Constitution, and recording decisions.
- 1.15 In taking decisions, the Cabinet must satisfy itself that it has before it adequate and appropriate advice from its service, legal and financial advisers who shall be present at any meeting where a decision is being taken and that advice is taken into consideration in determining the matter. Where there is any doubt about vires or probity then advice must be obtained from the Monitoring Officer and the Section 151 Officer.
- 1.16 Any Cabinet member may require the Monitoring Officer to place an item on the agenda for a stipulated meeting of the Cabinet.
- 1.17 The Monitoring Officer will ensure that any matters referred to the Cabinet by the Council or an Overview and Scrutiny Board are placed on the agenda for the next appropriate meeting of the Cabinet.
- 1.18 Any councillor may request the Leader to place an item on the agenda of a meeting of the Cabinet. The Leader shall have sole discretion as to whether or not to accede to such a request but shall consult the Monitoring Officer prior to making a decision. If such a request is granted, the Leader shall have sole discretion as to whether the councillor in question can speak to the item at the meeting in question.
- 1.19 The Head of Paid Service, the Monitoring Officer and/or the Section 151 Officer can include an item for consideration on the agenda of a Cabinet meeting. In pursuance of their statutory duties, they can require that a special meeting of the Cabinet be convened.
- 1.20 Business cannot be conducted at formal meetings of the Cabinet unless it is included on the agenda for the meeting. Where it is urgent, the requirements of the Access to Information Rules must be complied with.

- 1.21 The Cabinet will report to the Council as required under the Access to Information Rules on any matter which is classified as a Key Decision and is dealt with under special urgency procedures.

VOTING AT CABINET MEETINGS

- 1.22 Voting at Cabinet meetings will be by a show of hands and any Member may require, immediately after the vote is taken, that the minutes of the meeting record how they voted or abstained. Where there are equal votes cast and provided they have already cast their first vote, the Leader or, in their absence, the person chairing may exercise a second or casting vote.
- 1.23 Voting for any office or appointment, including any paid appointment, where more than one person is nominated shall be in accordance with Council Meeting Procedure Rule 23.7.

CABINET COMMITTEES AND SUB-COMMITTEES

- 1.24 The Cabinet may appoint such committees or sub-committees as it considers necessary and appropriate to assist in the discharge of its functions. In making such appointments, the Cabinet must specify the name of the committee/sub-committee, its membership (including its Chair and, if appropriate, Vice Chair) and its terms of reference.

RESERVES/SUBSTITUTE MEMBERS

- 1.25 There shall be no reserve or substitute members of the Cabinet.

APPROVAL OF URGENT BUSINESS

- 1.26 Where any matter is urgent and cannot await the next meeting, the Head of Paid Service may take the necessary action, provided that they have first consulted the Leader (or Deputy Leader if they are not available). The decision taken shall be reported to the next public meeting of the Cabinet.

CONFLICTS OF INTEREST

- 1.27 Where the Leader or any Cabinet Member has a conflict of interest, they will follow the requirements of the Members' Code of Conduct in relation to such interests, including any restrictions on participating in the debate or voting upon the issue in question.
- 1.28 If all (or a majority) of the members of the Cabinet present have a conflict of interest, then consideration will be given to applying to the Monitoring Officer for a dispensation from the provisions of the Code.
- 1.29 If the discharge of a Cabinet function has been delegated to another body or individual and a conflict of interest arises for that body or individual, then it will fall to the body or individual who delegated the matter to take the decision.

Access to Information Rules

1 GENERAL

- 1.1 These rules apply to all public meetings of the Cabinet, Council, its committees, sub-committees and joint committees.
- 1.2 In these Rules the word “meeting” means a meeting or meetings of any of these bodies unless specified otherwise.
- 1.3 These rules do not affect any other specific rights to information contained elsewhere in this Constitution or the law.
- 1.4 Members of the public may attend all public meetings subject to the exceptions contained in these Rules.
- 1.5 Members of the press and public are also entitled to film, audio record and report on meetings of the Council, committees, Cabinet and joint committees, except in circumstances where the press and public have been excluded as permitted by law. Such filming, audio recording or reporting shall be in accordance with any guidelines published by the Council on its website or made available at the meeting.

2 NOTICE OF MEETINGS

- 2.1 The Council will give at least five clear working days’ notice of any such meeting by publicising, including by electronic means, relevant details, unless Rule 13 (Special Urgency) has been applied.

3 AGENDA AND SUPPORTING PAPERS - RIGHTS OF ACCESS

- 3.1 Copies of the agenda and supporting papers will be made available on the Council’s website, for inspection by the public at least five clear working days before the meeting. Where an item is added to an agenda later, a supplementary agenda will be made available, with any supporting papers, to the public as soon as possible.
- 3.2 The Council will supply on request copies of any agenda and reports which are open to public inspection, and if the Monitoring Officer thinks fit, copies of any further documents supplied to councillors relating to that item.
- 3.3 The Council may require any person to make a payment in advance covering postage and costs connected to the supply of the papers in Rule 3.2 above.

4 ACCESS TO DECISION RECORDS, MINUTES, AGENDA AND SUPPORTING PAPERS AFTER A MEETING

- 4.1 The Council will make electronically available, for a period of six years from the date of the meeting:

- (a) the minutes of the meeting where, under these rules or the Constitution, minutes are required to be made, excluding any part of the minutes relating to the conduct of business when the public were not present or where exempt or confidential information would be disclosed;
- (b) the records of decisions taken, together with reasons by the Cabinet excluding any part of the record relating to the conduct of business when the public were not present or where exempt or confidential information would be disclosed;
- (c) where information relating to a decision is considered in private, a summary of the proceedings to provide a reasonably fair and coherent record, excluding any information which is of a confidential or exempt nature; and
- (d) the agenda and supporting papers covering items which were considered when the public were entitled to be present.

5 BACKGROUND DOCUMENTS

- 5.1 The officer, in whose name an item is to be submitted for decision, will set out in the agenda a list of the background documents which in their opinion:
 - (a) relates to the subject matter of the item in question;
 - (b) discloses any facts or matters on which the agenda item or an important part of it has been based; and
 - (c) has been relied upon to a material extent in preparing the agenda item.
- 5.2 The requirements in Rule 5.1 above do not apply to or include any published works or any document in whole or in part which would disclose confidential or exempt information.
- 5.3 Background documents which have been made available for public inspection will continue to be available for a period of four years from the date the decision is made.

6 DEFINITION OF CONFIDENTIAL AND EXEMPT INFORMATION

- 6.1 For the purposes of these Rules, the definitions of confidential and exempt information are set out below.
- 6.2 Confidential Information means information supplied or given to the Council by a government department on terms which forbid its disclosure to the public or is information which cannot be disclosed to the public due to a prohibition in any enactment or by Order of the Courts.
- 6.3 Exempt Information is information falling within any of the categories set out in Appendix 1 to this section of the Constitution, subject to the conditions noted in that Appendix.

7 EXCLUSION OF THE PRESS AND PUBLIC FROM MEETINGS

Confidential information – requirement to exclude

- 7.1 The press and public will be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the proceedings, that confidential information, as described in Rule 6.2 above will be disclosed.

Exempt information – discretion to exclude

- 7.2 In the case of exempt information, the press and public may be excluded from a meeting where Rule 6.3 and Appendix 1 applies.

8 NO PUBLIC RIGHT OF ACCESS TO AGENDA PAPERS

- 8.1 The Monitoring Officer, where they consider it necessary, may refuse access by the public to any agenda or supporting papers which in their opinion relate to items during which, in accordance with Rule 7 above, the meeting is likely not to be open to the public. Any such papers will be clearly marked “Not for Publication” and will contain the category of information to be disclosed as set out in Appendix 1 to these Rules. Similar provisions apply to the disclosures of documents related to decisions of the Council, including the Cabinet.

9 THE CABINET: APPLICATION OF THESE RULES

- 9.1 Rules 10 to 20 below will apply to the Cabinet and any committees or sub-committees which it may establish from time to time.
- 9.2 Where the Cabinet, including a committee or sub-committee of the Cabinet, meet to discuss a Key Decision with an officer or officers present, within 28 days of the date according to the Forward Plan by which it is to be decided, then the Cabinet must comply with Rules 1 to 8 above unless Rule 12 (general exception) or 13 (special urgency) apply. This requirement does not apply where the sole purpose of the meeting is for officers to brief councillors.

10 DEFINITION OF KEY DECISION AND PROCEDURE BEFORE TAKING A KEY DECISION

- 10.1 A Key Decision means an Executive decision, which is likely:
- (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
 - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more electoral wards in the area of the Council.
- 10.2 In deciding what amounts to 'significant' in relation to paragraph 10.1(a) above, a guidance threshold figure of £500,000 is suggested, but discretion

should be used to determine whether the amount in question is significant with regard to the particular budget to which the decision relates.

10.3 Subject to Rules 12 or 13, a Key Decision cannot be taken unless:

- (a) a notice ("[the Forward Plan](#)") has been published in connection with the matter in question and made available to the public at the main offices of the Council;
- (b) at least 28 clear calendar days have elapsed since publication of the Forward Plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet, including a committee or sub-committee of the Cabinet, public notice of the meeting has been given under Rule 2 above.

11 THE FORWARD PLAN

11.1 The [Forward Plan](#) will be prepared on behalf of the Leader on a monthly basis to cover a four-month period beginning with the first day of any month. The Forward Plan will be rolled forward and published each month to cover the four-month period beginning again with the new date of publication. There will be instances where it is impracticable to include an item in the Forward Plan. In this case, Rules 12 or 13 below will apply.

11.2 The Forward Plan will contain such matters as the Leader has reason to believe will be Key Decisions to be taken by the Leader, the Cabinet, a Portfolio Holder, a committee or sub-committee of the Cabinet or an office holder in the course of the discharge of a Cabinet function during the period covered by the Forward Plan.

11.3 The Forward Plan will describe in respect of each matter the following particulars:

- (a) that a Key Decision is to be made;
- (b) the matter relating to the decision to be made;
- (c) the name and title of the decision taker if an individual, or the name and details of the membership where the decision taker is a body;
- (d) the date on which, or the period within which, the decision will be taken;
- (e) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (f) the means by which any such consultation is proposed to be undertaken;
- (g) the steps any person might take to make representations to the Cabinet or decision taker about the matter before the decision is made, and the date by which those steps must be taken;

- (h) a list of the documents submitted to the decision taker for consideration in relation to the matter;
 - (i) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
 - (j) that other documents relevant to the matter may be submitted to the decision taker; and
 - (k) the procedure for requesting details of those documents (if any) as they become available.
- 11.4 Where in relation to any matter where the public may be excluded from a public meeting under Rule 7, or documents relating to the decision need not be disclosed to the public, the Forward Plan must contain the particulars of the matter, but may not contain any confidential information, exempt information or particulars of the advice of a political adviser or assistant.

12 GENERAL EXCEPTION FOR KEY DECISIONS

- 12.1 If a matter which is likely to be a Key Decision has not been included in the Forward Plan then, subject to Rule 13, the decision may still be taken if:
- (a) the decision has to be taken by such a date that it is impracticable to comply with Rules 10.3 and 11;
 - (b) the Monitoring Officer has informed the Chair of the relevant Overview and Scrutiny Board, or if there is no such person, each member of the Committee in writing, by [notice](#), of the matter to which the decision is to be made;
 - (c) the Monitoring Officer has made copies of that notice available to the public at the main office of the Council and published it on the Council's website; and
 - (d) at least five clear working days have elapsed since the Monitoring Officer complied with their obligations under this paragraph.
- 12.2 As soon as practicable after complying with Rule 12.1, the Monitoring Officer shall make available at the main office of the Council and publish on the Council's website a [notice](#) setting out the reasons why compliance with Rules 10.3 and 11 is not possible.
- 12.3 Where such a decision is taken by the Cabinet, it must be taken in public subject to any requirements relating to the disclosure of confidential or exempt information and the exclusion of the public.

13 SPECIAL URGENCY FOR KEY DECISIONS

- 13.1 If by virtue of the date by which a Key Decision must be taken, the requirements of Rule 12 above cannot be followed, then the decision can

only be taken if the decision maker (if an individual) or the Chair of the body taking the decision, obtains the agreement of the Chair of the relevant Overview and Scrutiny Board that the taking of the decision cannot be reasonably deferred. If there is no Chair of the Overview and Scrutiny Board or if they are unable to act, then the agreement of the Mayor, or in their absence the Deputy Mayor, will suffice.

- 13.2 In addition to the requirement for the Chair to agree to the matter being dealt with as urgent business, the Chair and Vice Chair of the relevant Overview and Scrutiny Board will be consulted, and may comment, on the subject matter of the decision itself.

14 REPORT TO COUNCIL

- 14.1 If an Overview and Scrutiny Board is of the opinion that a Key Decision has been taken which was not:

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure under Rule 12 above; or
- (c) the subject of an agreement with an Overview and Scrutiny Board Chair, or the Chair/Vice Chair of the Council under Rule 13 above;

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies.

- 14.2 In response to any requirement under Rule 14.1 above, the Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of the resolution of the Cabinet, then the report may be submitted to the subsequent meeting. The report to the Council will set out particulars of the decision, the individual or body taking the decision, and if the Cabinet is of the opinion that it was not a Key Decision, the reasons for that opinion.

15 RECORD OF DECISIONS OF THE CABINET

- 15.1 After any meeting of the Cabinet or any of its committees or sub-committees, whether held in public or private, the Monitoring Officer or their nominee shall produce as soon as practicable a written statement of every decision taken at that meeting. The record will include:

- (a) the subject matter of the decision, including the date it was made;
- (b) the reasons for the decision;
- (c) any alternative options considered and rejected;
- (d) any conflict of interest declared by any member of the decision-making body; and

(e) in respect of any declared conflict of interest, any dispensation granted.

15.2 Where an Executive decision is taken by an individual member, that member shall, as soon as reasonably practicable, produce or instruct the Monitoring Officer or their nominee to produce, a written statement of that decision, including the matters stated in Rule 15.1(a) to (c) and:

(a) a record of any conflict of interest declared by any Executive member who was consulted by the member who made the decision and which relates to that decision; and

(b) in respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer.

16 CABINET MEETINGS RELATING TO MATTERS THAT ARE NOT KEY DECISIONS

16.1 Meetings of the Cabinet at which any decisions are to be taken shall be held in public, subject to the requirements of Rules 7 and 8 above.

17 MEETING OF THE CABINET IN PRIVATE

17.1 Where a meeting of the Cabinet, including a committee or sub-committee of the Cabinet, is to be held in private under these Rules, at least 28 clear days before the meeting, the Cabinet shall make available at the main office of the Council and on its website a [notice](#) of its intention to hold a meeting in private, giving reasons as to why the meeting is to be held in private.

17.2 At least five clear days before the meeting, the Cabinet must make available at the main office of the Council and on its website a further [notice](#) of its intention to hold a meeting in private containing:

(a) the reasons as to why the meeting is to be held in private;

(b) details of any representations received by the Cabinet about why the meeting should be open to the public;

(c) a statement of the Cabinet's response to any such representations.

17.3 All members of the Cabinet shall be entitled to be given five clear working days' notice of the meeting, unless the meeting is convened at shorter notice on urgency grounds.

17.4 Copies of the notices required by Rules 17.1 and 17.3 shall be sent to the Chairs of the Overview and Scrutiny Boards.

17.5 Where the date by which a private meeting must be held makes compliance with Rules 17.1 and 17.2 impracticable, the meeting may only be held in private where the Cabinet has obtained agreement from:

(a) the Chair of the Executive Scrutiny Board; or

(b) if there is no such person, or if a Chair of the Executive Scrutiny Board is unable to act, the Mayor; or

(c) where neither the Chair of the Executive Scrutiny Board or the Mayor are able to act, the Deputy Mayor;

and that they are of the opinion that the meeting is urgent and cannot reasonably be deferred.

- 17.6 As soon as reasonably practicable after the decision-making body has obtained agreement under Rule 17.5, it must make available at the Council's main office and publish on the Council's website a notice setting out why the meeting is urgent and cannot reasonably be deferred.

18 ATTENDANCE AT PRIVATE MEETINGS OF THE CABINET

- 18.1 Any Cabinet member may attend a private meeting of a committee or sub-committee of the Cabinet, whether or not they are members of that body, unless the body determines otherwise.

- 18.2 Any Cabinet member who is not a member of such a committee or sub-committee shall be entitled to speak with the consent of the Chair but not to vote.

19 OFFICER ATTENDANCE AT CABINET MEETINGS

- 19.1 The Head of Paid Service, the Section 151 Officer and the Monitoring Officer, or their nominees, are entitled to attend any meeting of the Cabinet. The Cabinet cannot meet unless the Monitoring Officer has been given reasonable notice that a meeting is to take place. This provision also applies to committees and sub-committees of the Cabinet.

- 19.2 A private meeting of the Cabinet, including a committee or sub-committee of the Cabinet, may only take place in the presence of the Monitoring Officer or their nominee, who shall have responsibility for recording and publishing any decisions.

20 KEY DECISIONS BY PORTFOLIO HOLDERS

- 20.1 Where an individual Cabinet member receives a report which they intend to take into account in making any Key Decision, then they will not make the decision until at least five clear working days after receipt of that report.

- 20.2 On giving of such a report to a Portfolio Holder, the person who prepared the report will give a copy of it to the Chair of the relevant Overview and Scrutiny Board as soon as reasonably practicable and make it publicly available at the same time.

- 20.3 As soon as reasonably practicable after a Key Decision has been taken by a Portfolio Holder, a written record of the decision must be produced in accordance with Rule 15.2 above.

- 20.4 The provisions of Rules 4 and 5 will also apply to the making of decisions by Portfolio Holders. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

21 RECORD OF EXECUTIVE AND NON-EXECUTIVE DECISIONS TAKEN BY OFFICERS

- 21.1 As soon as reasonably practicable after an officer has made an Executive decision (i.e. the responsibility of the Cabinet) a written statement will be prepared including:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the officer when making the decision;
- (d) a record of any conflict of interest declared by any Executive member who is consulted by the officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Monitoring Officer.

- 21.2 Any record prepared in accordance with Rule 21.1 and any report considered by the officer and relevant to the decision will be available for public inspection at the main office of the Council and on the Council's website.

- 21.3 Rules 21.1 to 21.2 will relate to decisions taken by officers in accordance with their powers and duties set out within the Scheme of Delegation or otherwise under an express delegation from the Cabinet, Council, its committees, sub-committees or any joint committee in which the Council is involved. Rules 21.1 to 21.2 shall not apply to day-to-day administrative or operational decisions taken by officers in connection with the discharge of functions which are the responsibility of the Cabinet.

- 21.4 As soon as reasonably practicable after an officer has made a decision under an express delegation from the Council, its committees, sub-committees or any joint committee in which the Council is involved, or under a general delegation from one of these bodies where the effect of the decision is to grant a permission or license, affect the rights of an individual or award a contract or incur expenditure, which in either case materially affects the Council's position, a written statement will be prepared including:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the officer when making the decision; and

- (d) a record of the name of any councillor who has declared an interest (for decisions taken under an express delegation).
- 21.5 Any record prepared in accordance with Rule 21.4 together with any background papers considered by the officer and relevant to the decision will be available for public inspection at the main office of the Council and on the Council's website.
- 21.6 Rules 21.4 to 21.5 do not apply to:
 - (a) routine administrative and organisational decisions;
 - (b) decisions on operational matters such as day to day variations in services;
 - (c) decisions if the whole or part of the record contains confidential or exempt information; and
 - (d) decisions that are already required to be published by other legislation, provided the record published includes the date the decision was taken and the reasons for the decision.

22 ACCESS TO DOCUMENTS – OVERVIEW AND SCRUTINY BOARDS

- 22.1 Subject to Rule 22.4 below, any member of an Overview and Scrutiny Board is entitled to copies of any document which is in the possession or control of the Leader and/or the Cabinet including its committees and sub-committees and which contains material relating to:
 - (a) any business transacted at a public or private meeting of the Cabinet including any of its committees and sub-committees;
 - (b) any decision taken by an individual Cabinet member; or
 - (c) any Executive decision taken by an officer in accordance with the Scheme of Delegation or otherwise under an express delegation from the Cabinet.
- 22.2 Where a member of an Overview and Scrutiny Board (including its sub-committees) requests a document which falls within Rule 22.1, the Leader must provide that document as soon as reasonably practicable and, in any case, no later than 10 clear working days after the Leader receives the request.
- 22.3 Subject to Rule 22.4, the Chair of the relevant Overview and Scrutiny Board is entitled to see papers in relation to private decisions of the Cabinet before the decision is made.
- 22.4 Where the Leader so determines, a member of an Overview and Scrutiny Board will not be entitled to:
 - (a) any document that is in draft form;

- (b) any such document or part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising, or any review contained in any programme of work of the Committee.

22.5 The Leader must provide the relevant Overview and Scrutiny Board with a written statement setting out the reasons for their decision.

23 ADDITIONAL RIGHTS OF ACCESS FOR COUNCILLORS

23.1 All councillors will be entitled to inspect any document which is in the possession or under the control of the Leader and or the Cabinet, including its committees or sub-committees, and contains:

- (a) material relating to any business to be transacted at a public meeting;
- (b) any business previously transacted at a private meeting;
- (c) any decision made by an individual member;
- (d) an Executive decision by an officer;

unless, in the opinion of the Monitoring Officer, it contains exempt information falling within the categories of exempt information as set out in Appendix 1; or it contains the advice of a political advisor.

23.2 All councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Leader or the Cabinet, including its committees and sub-committees, which relates to any Key Decision, unless Rule 23.1 above applies.

23.3 In relation to public meetings, where a document is required to be available for inspection by all councillors under Rule 23.1, it must be available for at least 5 clear working days before the meeting except where the meeting is convened at shorter notice or an item is added to an agenda at shorter notice, in which case the document must be available for inspection when the meeting is convened or the item is added to the agenda.

23.4 In relation to private meetings, decisions made by an individual member or Executive decisions made by an officer, where a document is required to be available for inspection by all councillors under Rule 23.1, it must be available within 24 hours of the meeting concluding, or where an Executive decision is made by an individual member or an officer, within 24 hours of the decision being made.

23.5 These rights of a councillor are additional to any other right they may have.

APPENDIX 1 - DESCRIPTIONS OF EXEMPT INFORMATION

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

- 1) Information relating to any individual.
- 2) Information which is likely to reveal the identity of an individual.
- 3) Information relating to the financial or business affairs of any particular person (including the authority holding that information).
- 4) Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
- 5) Information in respect of which a claim of legal professional privilege could be maintained in legal proceedings.
- 6) Information which reveals that the authority proposes:
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
- 7) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

QUALIFICATIONS

Information falling within paragraph 3 above is not exempt information if it is required to be registered under:

- (a) the Companies Acts (as defined in section 2 of the Companies Act 2006);
- (b) the Friendly Societies Act 1974;
- (c) the Friendly Societies Act 1992;
- (d) the Co-operative and Community Benefit Societies Act 2014;
- (e) the Building Societies Act 1986; or
- (f) the Charities Act 2011

Information is not exempt information if it relates to proposed development for which the Local Planning Authority may grant itself planning permission or permission in principle pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

Information which falls within any of the paragraphs 1-7 above is Exempt information if and so long as in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

There is no legal definition of 'public interest', but the following are relevant considerations in favour of disclosure:

- (a) The information would assist public understanding of an issue that is subject to current public debate.
- (b) Proper debate cannot take place without wide availability of all the relevant information.
- (c) The issue affects a wide range of individuals or companies.
- (d) Facts and analysis behind major policy decisions.
- (e) Allowing individuals to understand decisions made by public authorities affecting their lives and, in some cases, assisting individuals in challenging those decisions.
- (f) Accountability for proceeds of sale of assets in public ownership.
- (g) Openness and accountability for tender processes and prices.
- (h) Public interest in public bodies obtaining value for money.
- (i) Public health or public safety.
- (j) Damage to the environment.
- (k) Contingency plans in an emergency.
- (l) Promoting accountability and transparency for decisions taken by public authorities and the spending of public money.

A practice of applying "Exempt" status to a report without reasons being set out and consideration of the public interest is not acceptable.

6. JOINT ARRANGEMENTS

Arrangements to promote wellbeing

- 6.1. The Council or the Executive, in order to promote the economic, social or environmental wellbeing of its area, may:
- (a) enter into arrangements or agreements with any person or body;
 - (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body;
 - (c) exercise on behalf of that person or body any functions of that person or body³³.

Joint arrangements entered into by the Council

- 6.2. 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. Such arrangements may involve the appointment of a joint committee with the other local authorities³⁴.

Joint arrangements entered into by the Executive

- 6.3. The Executive may establish joint arrangements with one or more local authorities to exercise Executive functions. Such arrangements may involve the appointment of joint committees with the other local authorities³⁵.
- 6.4. The Executive may only appoint Executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole³⁶.
- 6.5. The Executive may appoint non-Executive members to a joint committee where the joint committee has functions for only an area of the authority that is smaller than two-fifths of the authority by area or population. In such cases, the Executive may appoint to the joint committee any councillor who is a member for a ward that is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.

Access to information

- 6.6. If all the members of a joint committee are members of the Executive in each of the participating authorities, then its access to information regime is the same as that applied to the Executive.

³³ Schedule 2 – [Local Government Act 2000](#)

³⁴ Section 101(5) – [Local Government Act 1972](#)

³⁵ Article 3 – [Local Authorities \(Arrangements for the Discharge of Function\) \(England\) Regulations 2000](#)

³⁶ Regulation 12(1) – [Local Authorities \(Arrangements for the Discharge of Function\) \(England\) Regulations 2000](#)

- 6.7. If the joint committee contains Members who are not on the Executive of any participating authority, then the access to information rules in Part VA of the Local Government Act 1972 will apply.

Delegation to and from other local authorities

- 6.8. The Council may delegate non-Executive functions to another local authority or, in certain circumstances, the Executive of another local authority³⁷.
- 6.9. Arrangements can only be made for a Non-Executive function to be carried out by the Executive of another local authority if that function is the responsibility of that other authority's Executive³⁸.
- 6.10. The Executive may delegate Executive functions to another local authority or the Executive of another local authority in certain circumstances³⁹.
- 6.11. The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting⁴⁰.

Contracting out

- 6.12. The Council (for Non-Executive functions) and the Executive (for 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 s.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.

Joint arrangements entered into by Derby City Council

- 6.13. Derby City Council has entered into the following formal joint arrangements:

D2N2 Local Enterprise Partnership

- a) D2N2 is one of 38 Local Enterprise Partnerships (LEP) working across England to support business growth and level up productivity. The LEP's ambition is to improve the productivity of the local economy and the standards of living of residents.
- b) The Board members are drawn from the public, private, education and voluntary sector, and includes the Leader of the Council or their nominated representative.
- c) More information can be found on the LEP's website : [About Us | D2N2](#)

³⁷ Article 8 [Local Authorities \(Arrangements for the Discharge of Functions\) \(England\) Regulations 2000](#)

³⁸ [Local Authorities \(Arrangements for the Discharge of Functions\) \(England\) Regulations 2000](#)

³⁹ [Local Authorities \(Arrangements for the Discharge of Functions\) \(England\) Regulations 2000](#)

⁴⁰ [Article 9 Local Authorities \(Arrangements for the Discharge of Functions\) \(England\) Regulations 2000](#)

d2n2lep.org).

Derby and Derbyshire Channel Panel

- a) The Channel Panel is established under section 36 of the Counter-Terrorism and Security Act 2015, which sets out the duty on local authorities and its partners to provide support for people vulnerable to being drawn into terrorism. It is a key part of work to prevent extremism through supporting those who may be vulnerable to radicalisation by assessing the nature and extent of the potential risk and, where necessary, providing an appropriate support package tailored to an individual's needs.
- b) Section 37(5) of the 2015 Act requires Channel Panels to be chaired by the responsible local authority, i.e. the authority responsible for ensuring a panel is in place. Members of the panel must include the responsible local authority and the police for the relevant area, and they have principal responsibility for Channel in their areas.
- c) The Channel Panel is chaired by the Head of Community Safety and Localities. The Council is also represented by the Head of Adult Safeguarding, Deputy Head of Youth Offending Services, Safeguarding Adults and Professional Standards Team Manager, Prevent Coordinator and Prevent Education Officer.
- d) Section 41(3) of the 2015 Act makes provision for two or more local authorities to have a panel in place for a combined area, allowing for proportionate and efficient use of resources. Derby City Council and Derbyshire County Council have a combined panel.
- e) More details can be found on the Council's website: [Prevent - Derby City Council](#).

Derby and Derbyshire Integrated Care Partnership

- a) The Derby and Derbyshire Integrated Care Partnership (ICP) is a statutory joint committee⁴¹ of Derby City Council, Derbyshire County Council and Derby and Joined Up Care Derbyshire (Integrated Care Board (ICB)) and is part of the Derby and Derbyshire Integrated Care System.
- b) The Council's representation on the ICP is the Cabinet Member(s) and Statutory Officer(s) with responsibility for Public Health, Adult Social Care and Children's Social Care. The meeting is chaired on a rotating basis between the Chairs of the Derby and Derbyshire Health and Wellbeing Boards.
- c) The ICP is required⁴² to prepare an Integrated Care Strategy that:
 - (i) Details how the needs of residents of its areas will be met either by the ICB, NHS England or local authorities.

⁴¹ In accordance with section 116ZA of Local Government and Public Involvement in Health Act 2007.

⁴² Under section 116ZB of the Local Government and Public Involvement in Health Act 2007.

- (ii) Considers how NHS bodies and local authorities could work together to meet these needs using section 75 of the National Health Service Act 2006.
 - (iii) Must have regard to the NHS mandate and guidance published by the Secretary of State.
 - (iv) Involves Local Healthwatch and people who live or work in the ICP's area.
 - (v) Is reviewed and revised as required when a new joint strategic needs assessment (JSNA) is received from a local authority within the ICP.
 - (vi) Considers how health related services can be more closely integrated with arrangements for the provision of health services and social care in its area.
 - (vii) Is published and provided to each local authority in its area and each partner ICB of those local authorities.
- d) A local authority and each of its partner ICPs must⁴³ have regard to:
- (i) Any joint assessment of health and social care in relation to the area for which they are responsible.
 - (ii) Any Integrated Care Strategy that applies to the area of the local authority.
 - (iii) Any Joint Local Health and Wellbeing Strategy prepared by the local authorities and any of its partner ICBs.

Derby and Derbyshire Prevent Board

- a) Under section 29 of the Counter-Terrorism and Security Act 2015, the Prevent Duty requires local authorities to establish or make use of an existing local multi-agency group to agree risk and co-ordinate Prevent activity.
- b) Section 36 (7) of the Act - articulated in the Channel Statutory Duty Guidance 2020 – requires a local strategic multi-agency partnership board to have oversight of Channel delivery and for the Channel chair to attend this board.
- c) The Board is chaired by the Director of Communities. The Council is also represented by the Director of Early Help and Children's Social Care, Director of Learning Inclusion and Skills, Director of Adult Social Care Services, the Channel Chair (Head of Community Safety and Localities) and the Prevent Co-ordinator.
- d) To demonstrate effective compliance with the duty, specified authorities must demonstrate evidence of productive co-operation with local Prevent co-ordinators, the police and local authorities and co-ordination through existing multi-agency forums, for example Community Safety Partnerships. Membership should include all relevant specified partner agencies:
 - i) Local authority including Prevent leads;

⁴³ Under section 116B of the [Local Government and Public Involvement in Health Act 2007](#).

- ii) In two tier areas Prevent governance should sit at the county level with selected representation for District Councils in the area;
- iii) Territorial policing;
- iv) Counter Terrorism policing;
- v) Safeguarding/social care;
- vi) Probation;
- vii) Further Education/Higher Education;
- viii) Prisons (if local and relevant);
- ix) Channel Chair (if different to above);
- x) Health.

Derby and Derbyshire Safeguarding Children Partnership

- a) Section 30 of the Children and Social Work Act 2017 Act ‘ abolishes’ Local Safeguarding Children Boards by deleting sections 13 to 16 of the Children Act 2004.
- b) Under the Children and Social Work Act 2017 Act the three statutory safeguarding partners (Local Authorities, Chief Officers of Police, and (Clinical Commissioning Groups (CCGs)), Integrated Care Board (ICB) have arrangements to work together with relevant agencies to safeguard and protect the welfare of children in the area. These are referred to as Multi-Agency Safeguarding Arrangements.
- c) Working Together to Safeguard Children (July 2018), sets out the statutory guidance to which all new Multi-Agency Safeguarding Arrangements must adhere. Under the guidance it is permissible for the new arrangements to cover more than one local authority area with the same principle applying for Clinical Commissioning Groups (now Integrated Care Boards) and Chief Officers of Police.
- d) The [Derby and Derbyshire Safeguarding Children Partnership](#) has a website where you can find out more information about the work of the Board. The Council is represented on the partnership by the Chief Executive, the Cabinet Member for Children and Young People and the Strategic Director of People Services, in their statutory role as Director of Children’s Services.

Derby Health and Wellbeing Board

- a) The Health and Wellbeing Board is established as a statutory committee of the Council⁴⁴, and is treated as a committee of the Council⁴⁵.
- b) The Board leads and advises on work to improve the health and wellbeing of the population of Derby and specifically to reduce health inequalities. It supports the development of improved and joined up health and social care

⁴⁴ Under section 194 of the [Health and Social Care Act 2012](#).

⁴⁵ Under section 102 of the [Local Government Act 1972](#) and the [Local Government and Housing Act 1989](#).

services.

- c) The Board brings together councillors and lead officers from Derby City Council, with executive GPs and lead officers from NHS Derby and Derbyshire Integrated Care Board, NHS England, Healthwatch Derby and other key public services. The following are statutory members of the Board:

- (i) At least one elected member of the Council nominated by the Leader;
- (ii) The Director of Adult Social Services;
- (iii) The Director of Children's Services.
- (iv) The Director of Public Health;
- (v) A representative of the Local Healthwatch organisation;
- (vi) A representative of the NHS Derby and Derbyshire Integrated Care Board;
- (vii) The Board may appoint additional persons to become members of the Board as it thinks appropriate;
- (viii) The Council must consult the Board before appointing a non-statutory member to the Board.

- d) The Board has a duty⁴⁶ to:

- (i) Encourage integrated working – through promoting an ethos of integration and partnership in the planning, commissioning and delivery of services to improve the health and wellbeing of the population of Derby and reduce health inequalities;
- (ii) Prepare and publish a Joint Strategic Needs Assessment (JSNA) of current and future health and social care needs in relation to the population of the local authority;
- (iii) Prepare and publish a Pharmaceutical Needs Assessment to assess the need for pharmaceutical services in Derby;
- (iv) Prepare and publish a Health and Wellbeing Strategy – for meeting the needs identified within the JSNA. The local Healthwatch and people living or working in the area must be involved in the development of the strategy;
- (v) Receive the Commissioning Plan of the NHS Derby and Derbyshire Integrated Care Board – including involvement in preparation of the plan and ensuring that it takes due regard of the JSNA and Health and Wellbeing Strategy;
- (vi) Express an opinion when an application from pharmacies in an area to consolidate or merge application is submitted⁴⁷.

- e) In addition to the stated statutory functions, the Health and Wellbeing Board will also:

- (i) Be a designated outcome board of Derby City and Neighbourhoods Partnership with responsibility for the implementation and monitoring

⁴⁶ Under the [Health and Social Care Act 2012](#); [Local Government and Public Involvement Act 2007](#); and [National Health Service Act 2006](#).

⁴⁷ Regulation 26A of the [NHS \(Pharmaceutical and Local Pharmaceutical Services\) Regulations 2013](#).

- of elements of the Derby Plan;
- (ii) Establish time limited task and finish groups as required to carry out work on behalf of the board.

f) More information can be found on the Council's website⁴⁸.

Derby Homes

- a) Derby Homes is an Arm's Length Management Organisation (ALMO) and is a subsidiary of Derby City Council, created to manage and maintain the Council's housing stock.
- b) The function of management and maintenance of the housing stock is delegated to Derby Homes, but ownership of the properties is retained by the Council. Derby Homes also manage the Council's Housing Options, Homelessness and Derby Advice services.
- c) Derby Homes is a Registered Provider and Investment Partner with the Regulator of Social Housing. The current partnership agreement with Derby City Council runs until 31 March 2032 and is set out within the Derby Homes Memorandum and Articles of Association.⁴⁹
- d) The Derby Homes Single Shareholder Vote is held by the Leader of the Council. The Derby Homes Board comprises of three tenants, three independent members and three councillors; councillors are appointed at the Derby City Council Annual General Meeting.

Derby Museums Trust

- a) Derby Museums is an independent charitable trust operating three museums: the Derby Museum and Art Gallery, Museum of Making and Pickford's House, It cares for collections of cultural heritage on behalf of Derby City Council, for the people of Derby.
- b) Derby Museums Trust is a registered charity which aims to advance the education and provide for the social welfare of the public through the provision of museums and the preservation of heritage buildings and collections. It is also a company limited by guarantee.
- c) Derby Museums is governed by a board of trustees responsible for overall strategy, key policies, major decisions and financial management which includes three councillors, appointed at the Council's Annual General Meeting.
- d) More information is available on the [Derby Museums Trust](#) website.

Derby Safeguarding Adults Board

- a) Derby Safeguarding Adults Board (DSAB) is a multi-agency strategic

⁴⁸ [Health and Wellbeing Board - Derby City Council](#)

⁴⁹ [Derby Homes - Public Documents](#)

partnership, which is committed to working together to ensure that adults who have care and support needs in Derby are supported to safeguard themselves from abuse and can report any concerns they may have.

- b) The main objective of the DSAB is to assure itself that local safeguarding arrangements and partners act effectively to help and protect adults in its area who:
 - (i) Have needs for care and support;
 - (ii) Are experiencing, or at risk of, abuse or neglect;
 - (iii) As a result of their care and support needs are unable to protect themselves from either the risk of or experience of abuse or neglect.
- c) The statutory functions⁵⁰ of DSAB are:
 - (i) To develop and publish a strategic plan setting out how it will meet its objectives, and how members will contribute to these;
 - (ii) To publish an annual report detailing how effective its work has been;
 - (iii) To commission safeguarding adults reviews (SARs) for any cases meeting the criteria for these.
- d) The Board is made up of partner agencies which include:
 - (i) Derby City Council
 - (ii) NHS Derby and Derbyshire Integrated Care Board
 - (iii) University Hospitals of Derby and Burton NHS Foundation Trust
 - (iv) Derbyshire Healthcare NHS Foundation Trust
 - (v) DHU Healthcare
 - (vi) Derbyshire Constabulary
 - (vii) Care Quality Commission
 - (viii) National Probation Service Midlands
 - (ix) East Midlands Ambulance Service
 - (x) Derbyshire Police and Crime Commissioner
 - (xi) Derbyshire Fire and Rescue Service
 - (xii) City and Neighbourhood Partnership
 - (xiii) Derby Homes
 - (xiv) University of Derby
 - (xv) Derbyshire Community Health Services NHS Foundation Trust
 - (xvi) NHS England
 - (xvii) Public Health
 - (xviii) Healthwatch Derby
 - (xix) Department of Work and Pension
 - (xx) Diocese of Derby
- e) Full details of the DSAB can be found on its website: [About Derby Safeguarding Adults Board - Derby Safeguarding Adults Board \(derbysab.org.uk\)](https://www.derbysab.org.uk). The Council is represented on the Board by the Strategic Director of People Services and Director of Adult Social Care as statutory

⁵⁰ As defined by the Care Act 2014 and supporting statutory guidance.

members and the Cabinet Member for Integrated Health and Adult Care.

Derby Standing Advisory Council for Religious Education (SACRE)

- a) The law states that religious education (RE) must be taught in all schools. However, RE is not part of the National Curriculum, it is a local responsibility.
- b) Every Local Authority (LA) is required by law⁵¹ to have a SACRE. The responsibilities of SACRE are to:
 - (i) provide advice to the LA on all aspects of its provision for RE in its schools (not including Voluntary Aided Schools), including methods of teaching, the choice of materials, and the provision of training for teachers;
 - (ii) advise the LA on its Agreed Syllabus for RE and require it to review it;
 - (iii) provide advice to the LA on Collective Worship in its schools (not including Voluntary Aided or Voluntary Controlled Schools);
 - (iv) consider requests from head teachers to hold Collective Worship that is not of a broadly Christian character;
 - (v) consider complaints assigned to it by the LA concerning collective worship or RE;
 - (vi) publish an annual report on its proceedings and those of its representative groups, to specify any matters on which the SACRE has given advice to the LA and the reasons for offering the advice.
- c) SACRE is required to be made up of four groups in order to bring a wide range of interests and talents to its work and to reflect local communities:
 - (i) Group A: faiths and beliefs representative of the local communities, including Christian denominations other than Church of England;
 - (ii) Group B: representatives of the Church of England;
 - (iii) Group C: representatives of the teaching profession;
 - (iv) Group D: representatives from the LA, including councillors and RE advisors.
- d) SACRE is responsible for appointing members from Groups A to C. Councillors are appointed at the Annual General Meeting in accordance with political proportionality requirements.⁵²
- e) In addition, the LA must:
 - (i) Establish an occasional body called an Agreed Syllabus Conference (ASC) to produce and recommend to the LA an agreed syllabus for RE for adoption by the Council⁵³ This may have common membership with the SACRE but is a separate entity and must therefore be separately convened;
 - (ii) Institute a review of its agreed syllabus within five years of the last

⁵¹ Section 390, [Education Act 1996](#)

⁵² [Committees > Standing Advisory Council for Religious Education \(derby.gov.uk\)](#)

⁵³ Schedule 31(2), [Education Act 1996](#)

review, and subsequently every five years after the completion of each further review;

- (iii) Appoint members of the committees represented on the ASC⁵⁴;
- (iv) Ensure that the composition of Group A on a SACRE and Committee A on an ASC is broadly representative of the proportionate strengths of the denominations and religions in the area. The statutory provisions recognise that there will be occasions when the interest of efficiency overrides the requirement for directly proportionate representation⁵⁵;
- (v) Take all reasonable steps when appointing a person to be a member of a group on a SACRE or a committee of an ASC to represent any religion, denomination or association, to ensure the person appointed is representative of the religion, denomination or associations in question⁵⁶.

Derbyshire Criminal Justice Board

- a) The Derbyshire Criminal Justice Board has been established to improve trust and confidence in the criminal justice system across communities in Derbyshire.
- b) The Board is chaired by the Police and Crime Commissioner for Derbyshire and its membership includes senior officers from the following agencies:
 - (i) Police and Crime Commissioner's Office
 - (ii) Derbyshire Constabulary
 - (iii) Crown Prosecution Service
 - (iv) Her Majesty's Court Service
 - (v) National Probation Service
 - (vi) Her Majesty's Prison Service
 - (vii) Derby and Derbyshire Youth Offending Services
 - (viii) Legal Aid Agency
 - (ix) Law Society
 - (x) Victim Support
 - (xi) Derby and Derbyshire Community Safety Partnerships
 - (xii) National Health Service
- c) The Board has established two sub-groups – the Domestic Abuse and Sexual Violence Governance Board and the Reducing Offending, Reducing Reoffending and Offender Health Group.
- d) The Council is represented on the Board by the Head of Community Safety and Localities and the Head of Specialist Services.
- e) In discharging their overall responsibilities, the Board will:

⁵⁴ Schedule 31(4), [Education Act 1996](#)

⁵⁵ Section 390, Schedule 31(4), [Education Act 1996](#)

⁵⁶ Section 391(1)(a), [Education Act 1996](#)

- (i) Provide a strategic steer to sub-groups in order to deliver the purpose of improving confidence;
- (ii) Robustly hold each agency to account in relation to performance and to resolve issues highlighted by Board and sub-group members;
- (iii) Promote inter-agency working amongst staff;
- (iv) Work closely with the East Midlands Regional Criminal Justice Board and its sub-groups on shared priorities;
- (v) Escalate risks and issues for regional or national solution as appropriate; and,
- (vi) Showcase good practice from Derbyshire at a regional and national level.

Derbyshire Fire and Rescue Authority

- a) The Derbyshire Fire and Rescue Authority is responsible for undertaking powers and duties associated with the Fire and Rescue Services Act 2004. Fire and Rescue Authorities must ensure they make provision for:
 - (i) Extinguishing fires in their area;
 - (ii) Protecting life and property in the event of fires in their area;
 - (iii) Rescuing and protecting people in the event of a road traffic collision;
 - (iv) Rescuing and protecting people in the event of other emergencies.
- b) Derbyshire Fire and Rescue Service is accountable to the Derbyshire Fire and Rescue Authority, which is responsible for determining the level of revenue funding, setting rigorous guidelines and monitoring costs incurred in running front line services.
- c) Derbyshire Fire and Rescue Authority consists of 16 councillors: 12 are appointed from Derbyshire County Council and four are from Derby City Council, who are appointed at the Council's Annual General meeting and reflect the political composition of the authority.
- d) More information is available on the [Derbyshire Fire and Rescue Authority website](#).

Derbyshire Pensions and Investments Committee

- a) The Pensions and Investments Committee is responsible for the management and administration of the Derbyshire Pension Fund on behalf of Derbyshire County Council.
- b) The committee is made up of 8 voting councillors representing the county council and two voting councillors representing Derby City Council. Two trade union representatives are also entitled to attend meetings of the Committee as non-voting members. The Council's representatives are appointed at the Annual General Meeting.
- c) The Committee's responsibilities include reviewing and approving the fund's:

- (i) Investment strategy statement
- (ii) Funding strategy statement
- (iii) Treasury management statement
- (iv) Quarterly tactical asset allocation
- (v) Communications policy
- (vi) Pensions administration strategy

d) The committee is also responsible for:

- (i) Appointing the fund's actuary, AVC provider, independent investment adviser and external fund managers in advance of assets transitioning to the LGPS Central Pool;
- (ii) Ensuring effective communications with pension scheme members and employers;
- (iii) Managing the resolution of pension disputes in accordance with the Applications for Adjudication of Disagreements Procedure, including the appointment of adjudicators;
- (iv) Reviewing policies relating to the administering authority's discretionary powers set out in the 2013 regulations and subsequent amendments;
- (v) Considering recommendations from the joint committee of the LGPS central pool and making decisions in respect of those recommendations.

e) The committee's agendas, non-confidential papers and minutes can be found on the Derbyshire Democracy website⁵⁷.

Derbyshire Police and Crime Panel

a) The Police and Crime Panel is responsible for carrying out powers and duties under the Police Reform & Social Responsibility Act 2011. The Panel considers the strategic actions and decisions of the Police and Crime Commissioner for Derbyshire. This includes considering whether they have:

- (i) Achieved the aims set out in the police and crime plan and annual report;
- (ii) Considered the priorities of the community safety partners;
- (iii) Consulted appropriately with the public and victims.

b) To achieve this, the Panel:

- (i) reviews the precept (council tax charge for the police);
- (ii) reviews the Police and Crime Plan including key activities, priorities, delivery and resourcing;
- (iii) reviews the annual report;
- (iv) holds confirmation hearings for the Chief Constable;
- (v) handles complaints about the conduct of the Police and Crime Commissioner;

⁵⁷ [Browse meetings - Pensions and Investments Committee - Derbyshire County Council](#)

- (vi) provides a dual role of challenging and supporting the Police and Crime Commissioner;
 - (vii) understands the strategic needs for the policing area, using the insight and understanding to support the Commissioner to carry out their strategy.
- c) The Panel is made up of 10 councillors - one from each of the 10 local authorities in the police force area (including Derby City Council), as well as two independent members. The Council's constituent member and substitute is appointed at the Council's Annual General Meeting; additional councillors may be subsequently co-opted to the Panel to ensure political proportionality is achieved across the County.
- d) An annual report of the Derbyshire Police & Crime Panel's activity shall be presented to full Council by the appointed councillor representative.

Derbyshire Resilience Partnership

- a) The Derbyshire Resilience Partnership (formerly known as the Derbyshire Local Resilience Forum) is a partnership of agencies who provide strategic oversight and co-ordination of emergency planning in Derbyshire, in accordance with the requirements of the Civil Contingencies Act 2004.
- b) The Derbyshire Resilience Partnership is chaired by the Chief Constable of Derbyshire Constabulary. Membership of the Partnership is divided between Category 1 and Category 2 responders, representing the following agencies:

Category 1 – responders who are subject to the full set of civil protection duties under the Act:

- (i) Derbyshire Constabulary
- (ii) Derbyshire Fire and Rescue Service
- (iii) East Midlands Ambulance Service
- (iv) Derbyshire County Council
- (v) Derby City Council
- (vi) Derbyshire district and borough councils
- (vii) NHS England
- (viii) Chesterfield Royal Hospital NHS Foundation Trust
- (ix) University Hospitals of Derby and Burton NHS Foundation Trust
- (x) Derbyshire Healthcare NHS Foundation Trust
- (xi) Environment Agency
- (xii) Public Health England

Category 2 – responders who are involved in preparing for incidents affecting their sectors and who are required to co-operate and share information with other Category 1 and 2 responders:

- (i) Health and Safety Executive
- (ii) Communications – BT, Mobile Phone Operators
- (iii) Transport – Highways England, Network Rail, East Midlands Trains,

- bus operators
 - (iv) Utilities – National Grid Gas and Electricity
- c) The Council is represented on the Partnership by the Strategic Director of Place and the Director of Communities.
- d) More information is available on the [Derbyshire Prepared](#) website.

PATROL Adjudication Joint Committee

- a) Over 300 local authorities in England (outside London) and Wales who undertake civil traffic enforcement are members of the PATROL (Parking and Traffic Regulations Outside London) Adjudication Joint Committee. Such authorities are required by statute to make provision for independent adjudication of traffic enforcement decisions.
- b) The PATROL Adjudication Joint Committee has been established to enable all councils having Civil Enforcement Area Orders to carry out civil enforcement of parking contraventions, in exercise of their functions under Section 81 of the Traffic Management Act 2004 and Regulations 16 and 17 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.
- c) The main function of the Joint Committee is to provide resources to support independent adjudicators and their staff, who together comprise the Traffic Penalty Tribunal. The relationship between the adjudicators and the Joint Committee is derived from and governed by the Traffic Management Act 2004 and, in the case of the Bus Lane Adjudication Service Joint Committee, the Transport Act 2000.
- d) One councillor is appointed from each participating authority – the Council's representative is the Cabinet Member with responsibility for traffic and transport and is appointed at the Annual General Meeting. Further details are available from the PATROL website: [Joint Committee - PATROL \(patrol-uk.info\)](#).

Safer Derby Board – Community Safety Partnership

- a) The Crime and Disorder Act 1998 (as amended by the Police and Justice Act 2006 and subsequent regulations) required the setting up of a Community Safety Partnership in each local authority area. In Derby this is referred to as the Safer Derby Board. The partnership board is made up of several statutory and non-statutory organisations and has membership comprising senior representatives from the following;
 - (i) Derby City Council
 - (ii) Derbyshire Constabulary
 - (iii) Police & Crime Commissioner
 - (iv) Derbyshire Fire and Rescue Service
 - (v) Probation Service
 - (vi) The local Criminal Justice Board

- (vii) The Community and Voluntary sector
 - (viii) Derby and Derbyshire Integrated Care Board
- b) The Partnership is chaired by the Director of Communities. The Council is also represented by the Head of Community Safety and Localities, Service Manager (Community Safety) and Head of Specialist Services.
- c) The role of the Board is to give strategic leadership and direction to tackle crime, disorder and substance misuse. The remit of the Board also meets the statutory requirement for a county level group to identify priorities to feed into a County Community Safety Agreement to help co-ordinate the work of partners in tackling community safety issues.
- d) The Board meets on a quarterly basis, with such additional meetings as may be convened by the Chair. The quorum is five.
- e) The operational business of the Board is delivered through several thematic sub-boards, chaired by a senior officer from one of the partner agencies.
- (i) Serious Violence
 - (ii) Violence Against Women and Girls
 - (iii) Serious Organised Crime and Exploitation
 - (iv) Neighbourhood Crime and Anti-Social Behaviour
 - (v) Domestic and Sexual Abuse
 - (vi) Prevent
 - (vii) Resettlement Cohesion and Integration
 - (viii) Online Harm

7. OVERVIEW AND SCRUTINY

Overview and Scrutiny Arrangements

THE ROLE OF OVERVIEW AND SCRUTINY

- 7.1 The Council operates an Overview and Scrutiny function that undertakes several roles including:
- (a) monitoring the decisions of the Cabinet;
 - (b) advising the Council on forthcoming decisions;
 - (c) the development and review of policy; and
 - (d) call-in of a decision which has been made by the Cabinet but not yet implemented.
- 7.2 The Overview and Scrutiny function will develop a work plan as well as supporting policy development, providing pre-decision scrutiny where appropriate, holding decision-makers to account and exercising the formal call-in of Executive decisions to review any concerns about the making of the decision.

TERMS OF REFERENCE

- 7.3 The Council will appoint an Overview and Scrutiny Committee (known as the Executive Scrutiny Board) with the terms of reference set out below to discharge the functions conferred by s.21 of the Local Government Act 2000, namely.
- (a) To perform Overview and Scrutiny functions on behalf of the Council.
 - (b) To discharge the Council's scrutiny functions under the Health and Social Care Acts 2001 and 2012, the National Health Service Act 2006, and any relevant Regulations made thereunder and any subsequent legislation.
 - (c) To discharge the relevant functions under the Local Government and Public Involvement in Health Act 2007 and the Police and Justice Act 2006.
 - (d) To review and scrutinise the exercise of flood risk management functions which may affect the local authority's area under s.9FH of the Local Government Act 2000.
 - (e) To perform the role of Crime and Disorder Committee under s.19 of the Police and Justice Act 2006⁵⁸, to review and scrutinise decisions made

⁵⁸ As supplemented by the Crime and Disorder (Overview and Scrutiny) Regulations 2009 and the Crime And Disorder (Overview And Scrutiny) (Amendment) Regulations 2010

or other action taken in connection with the discharge by the authorities⁵⁹ of their crime and disorder functions, including the work of the Community Safety Partnership Board.

- (f) To review and scrutinise education functions under the Education Act 1996, as amended and replaced from time to time.
- (g) To establish Scrutiny Review Boards and co-ordinate their activities with the following terms of reference:
 - i) To carry out scrutiny functions on behalf of the Council as determined by the Executive Scrutiny Board.
 - ii) In so far as is specified in its work programme, to undertake scrutiny investigations, performance reviews, “reality checks” and policy development and make recommendations to the Executive Scrutiny Board.
- (h) To agree the Overview and Scrutiny work programme, including work programmes for the Scrutiny Review Boards, to ensure the Committees’ time and resources are efficiently and effectively used.
- (i) To receive requests from the Executive for scrutiny involvement in policy development and review and decide how to respond.
- (j) To receive all appropriate performance management and budget monitoring information to review the performance of public sector bodies and partners delivering services in the city.
- (k) To consider the formal reports of Scrutiny Review Boards and:
 - i) Submit the reports for consideration by the Executive (if the proposals are consistent with the existing Budget and Policy Framework) or by the Council (via the Executive) if the recommendations would require a departure from, or a change to, the existing Budget and Policy Framework;
 - ii) Add comments or recommendations to the reports before submitting them as above; or
 - iii) Refer the reports back to the Scrutiny Review Board with comments, for further consideration.
- (l) To consider proposals from Scrutiny Review Boards for co-opted members to be appointed to these Boards.

⁵⁹ “Responsible authorities” for the area are defined in section 5 of the Crime and Disorder Act 1998 and include the council; the chief officer of police and the police authority; the fire and rescue authority; Primary Care Trusts; and the probation authority.

- (m) To consider decisions which have been “called in” and consider whether they should be referred back to the decision-maker for reconsideration.
- (n) To arrange for its function under s.21(2)(a) of the Local Government Act 2000 (review and scrutiny of decisions of the Executive) to be exercised by the Council.
- (o) To report to Council annually on the work of the Council’s Overview and Scrutiny function.

7.4 Scrutiny Review Boards are sub-committees of the Executive Scrutiny Board and have the following functions:

- (a) Agree a programme of policy development and review in relation to the Board's allocated topic area, and to undertake any policy development and review arising;
- (b) Consider service updates in relation to council and non-council functions within the Board's allocated topic area;
- (c) Make reports or recommendations to Council, Cabinet or any committees in respect of the discharge of the council's functions;
- (d) Make recommendations to the Executive Scrutiny Board in respect of performance areas for review.

7.5 The Executive Scrutiny Board may establish up to three Scrutiny Review Boards at any given time. Scrutiny Review Boards may be appointed for a fixed period on the expiry of which they shall cease to exist. They may set up sub-boards or time-limited working groups to discuss particular issues, but without formal scrutiny powers.

7.6 Scrutiny Review Boards may be established across successive municipal years to consider a particular area of the Council's business or to undertake a topic review. The Executive Scrutiny Board is responsible for ensuring reviews undertaken by Scrutiny Review Boards are brought to a satisfactory conclusion, irrespective of changes of membership over a given period.

MEMBERSHIP

7.7 All councillors except Cabinet members may be members of an Overview and Scrutiny Board. However, no member may be involved in scrutinising a decision in which they have been directly involved.

7.8 The Overview and Scrutiny Boards may appoint non-councillors as voting or non-voting co-optees, as required or permitted by relevant legislation, provided that the number of councillors on the committee or board shall be greater than the number of co-optees.

- 7.9 The relevant Overview and Scrutiny Board may appoint voting co-optees in order to assist in fulfilling its responsibilities under the National Health Service Act 2006.
- 7.10 The relevant Overview and Scrutiny Board dealing with education matters shall appoint the following voting representatives in accordance with the Education Act 1996. These representatives have the right to vote on any question which relates to any education functions which are the responsibility of the Cabinet. Parent Governor Representatives will be appointed in accordance with the guidance published by the relevant government department:
- (a) one Church of England diocese representative;
 - (b) one Roman Catholic diocese representative;
 - (c) two parent governor representatives; and
 - (d) one representative of other faiths or denominations.
- 7.11 If the relevant Overview and Scrutiny Board deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

Overview and Scrutiny Procedure Rules

1 The Overview and Scrutiny Boards

- 1.1 The Council has one Overview and Scrutiny committee and three sub-committees:
 - (a) Executive Scrutiny Board
 - (b) Place Scrutiny Review Sub Board
 - (c) People Scrutiny Review Sub Board
 - (d) Corporate Services Scrutiny Review Sub Board
- 1.2 The Executive Scrutiny Board shall meet monthly. There shall be at least five ordinary meetings of each Overview and Scrutiny Review Sub Board in each year. In addition, special meetings may be called from time to time as appropriate. An Overview and Scrutiny Board meeting may be called by the chair of the relevant board, by any three members of the board or by the Monitoring Officer if they consider it necessary or appropriate.
- 1.3 The Council appoints the Chair of the Executive Scrutiny Board and the Chairs of up to three Scrutiny Review Sub Boards, established by the Executive Scrutiny Board. Within the allocation of seats approved by the Council, the Chairs of the Scrutiny Review Boards shall also be appointed to the Executive Scrutiny Board and serve as its Vice Chairs.
- 1.4 Chairs and Vice-Chairs of working groups will be appointed by the Scrutiny Board establishing them.
- 1.5 All Chairs and Vice-Chairs of boards and sub-boards will be elected members of the Council. Where a board establishes a working group, the board will appoint a Chair (and, if necessary, a Vice-Chair) who need not be an elected member of the Council.
- 1.6 The Overview and Scrutiny Sub Boards will, subject to approval by the Executive Scrutiny Board, be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that board who are not members of the largest political group on the Council.

2 Agenda for meetings of Overview and Scrutiny boards

- 2.1 Matters to be considered will be set out in an agenda, together with supporting papers.
- 2.2 Any member of an Overview and Scrutiny board shall be entitled to request, in writing, that an item be included on the agenda of their committee⁶⁰. Any

⁶⁰ See section 21A(1)(a) of the [Local Government Act 2000](#).

such item shall appear on the agenda for the next meeting of the board in question. The board will decide how the item should be considered and whether or not it can be included in its work programme.

- 2.3 Similarly, the Leader or an individual Cabinet member may give notice in writing requesting an item to appear on an agenda of an Overview and Scrutiny board, relating to their areas of responsibility. The relevant Overview and Scrutiny board will decide how the item should be considered and whether or not it can be included in its work programme.
- 2.4 Subject to Procedure Rule 5.3 of the Committee and Sub-Committee Meeting Procedure Rules, any other councillor may give notice in writing to the Monitoring Officer, requesting an item to appear on an agenda of an Overview and Scrutiny board. The item shall be included after consulting the Chair of the relevant board.

3 Councillor Call for Action

- 3.1 The Councillor Call for Action (CCfA) enables any member of the council to bring any local government matter affecting their ward⁶¹ (including crime and disorder issues⁶²) to the attention of the council via the Scrutiny process. It is intended to enhance the council's Scrutiny arrangements and provide a formal mechanism to enable elected members to seek positive outcomes for the citizens they represent, provided all other means of resolution have been exhausted.
- 3.2 A CCfA will be included on an Overview and Scrutiny board agenda if the Chair is satisfied that:
- (a) the member has made all reasonable efforts to resolve the matter via liaison with council officers and/or relevant partner agencies; and
 - (b) the issue of concern relates to the discharge of a council function (including where this is undertaken with partners and other service providers); and
 - (c) the issue of concern has a demonstrable impact on all or part of the member's ward or has a significant social, environmental or economic impact on two or more wards within the Council area; and
 - (d) The CCfA does not relate to:
 - (i) individual complaints concerning personal grievances or commercial issues, for which the council's complaints procedure should be followed;

⁶¹ See section 21A(1)(c) of the [Local Government Act 2000](#).

⁶² See section 19(3)(b) of the [Police and Justice Act 2006](#).

- (ii) matters that have a statutory appeals process, e.g. planning and licensing applications, council tax queries, housing benefits complaints, issues under dispute in a court of law, etc;
 - (iii) matters where there is a statutory right of review or appeal (not including the right to complain to the Ombudsman), e.g. a matter relating to a housing benefit appeal;
 - (iv) matters that are vexatious, discriminatory or unreasonable;
 - (v) questioning Cabinet decisions that have been taken but not yet implemented, for which the Call-In procedure may be used.
- 3.3 Having considered a CCfA, the Overview and Scrutiny board may take one or more of the following actions:
- (a) ask for further information to be brought to a future meeting;
 - (b) require the attendance of Cabinet members or senior officers to attend a future meeting to answer questions;
 - (c) set up a sub-board or working group to undertake an in-depth review;
 - (d) make a report or recommendations to full Council, the Cabinet or partner agency and:
 - (i) publish that report;
 - (ii) request full Council or Cabinet to consider and respond to the report, setting out what action it proposes to take and to publish its response;
 - (iii) request a partner agency to have regard to the report when exercising its functions.
- 3.4 If the Overview and Scrutiny board decides to take any action then it will inform the member who raised the CCfA and provide them with a copy of any report or recommendations made in relation to the CCfA, together with any response received from full Council, the Cabinet or a partner agency.
- 3.5 If the Overview and Scrutiny Board decides not to consider a CCfA or on consideration decides no further action is necessary, it will inform the member who raised the CCfA and explain the reasons why.

4 Policy review and development

- 4.1 The role of the Overview and Scrutiny boards in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.

- 4.2 In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Overview and Scrutiny boards or sub-boards may make recommendations to the Cabinet insofar as they relate to matters within their terms of reference.
- 4.3 Overview and Scrutiny boards may hold enquiries and investigate available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

5 Reports from Overview and Scrutiny boards

- 5.1 Once recommendations have been formed, an Overview and Scrutiny board may submit a formal report for consideration by the Cabinet (if the proposals relate to an Executive function and are consistent with the existing Budget and Policy Framework), or to the Council (if the recommendation would require a departure from or a change to the agreed Budget or Policy Framework).
- 5.2 The Council or the Cabinet shall consider the report of an Overview and Scrutiny board at the next available meeting. The Council or the Cabinet shall respond to that Overview and Scrutiny board within two months (or following the next available meeting in the case of the Council) of it being submitted.

6 Rights of Overview and Scrutiny Board members to documents

- 6.1 In addition to their rights as councillors, members of Overview and Scrutiny boards have additional right of access to documents and to notice of meetings, as set out in the Access to Information Rules.

7 Councillors and Officers giving account

- 7.1 An Overview and Scrutiny board may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function within its remit. As well as reviewing the documentation, in fulfilling its scrutiny role, it may require the Leader, any Portfolio Holder, the Head of Paid service and/or any senior officer to attend before it to explain in relation to matters within their remit:

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Council policy; and/or
- (c) their performance,

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

- 7.2 Where an Overview and Scrutiny board requires an officer to attend to answer questions or discuss issues, this will be agreed with the Monitoring Officer.
- 7.3 Where it is agreed that an officer should appear to answer questions, their evidence should, as far as possible, be confined to questions of fact and explanation relating to policies and decisions.
- 7.4 Officers may be asked to explain and justify advice they have given to the Cabinet prior to decisions being taken. They may also be asked to explain and justify decisions they have taken under delegated powers from the Cabinet.
- 7.5 Officers should not be expected and should avoid being drawn into discussions of politically contentious matters and any officer input should be consistent with the requirements for political impartiality.
- 7.6 The requirements of the Working Together: Councillor and Officer Protocol and the Councillor Code of Conduct must be adhered to where an officer is attending an Overview and Scrutiny board.
- 7.7 Where any councillor or Officer is required to attend an Overview and Scrutiny board under this provision, the Chair of that board will inform the Monitoring Officer, who will inform the councillor or Officer in writing giving at least ten clear working days' notice of the meeting. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the board. Where the account to be given will require the production of a report, then the councillor or Officer will be given reasonable and sufficient notice to allow for its preparation.
- 7.8 Where, in exceptional circumstances, the councillor or Officer is unable to attend on the required date, then the board shall, in consultation with the councillor or Officer, arrange an alternative date for attendance.

8 Attendance by others

- 8.1 An Overview and Scrutiny board may invite other individuals to address it, discuss issues of local concern and/or answer questions.

9 Call-in

- 9.1 Call-in is the exercise of the statutory power of Overview and Scrutiny to review an Executive decision that has been made but not yet implemented.⁶³ Where a decision is called-in and the Executive Scrutiny Board decides to refer it back to the Cabinet for reconsideration, it cannot be implemented until the call-in procedure is complete.

⁶³ Under section 21(3) of the [Local Government Act 2000](#).

- 9.2 Call-in should only be used in exceptional circumstances where councillors are of the opinion that the Executive decision-maker did not take the decision in accordance with the decision-making principles set out in Part 1 of this Constitution.
- 9.3 Any Key Decision of the Cabinet, an individual Cabinet member or a committee of the Cabinet, or a Key Decision made by an officer under delegated authority, is subject to call-in. A decision may be called in only once.
- 9.4 The call-in procedure and the powers to refer a decision back for reconsideration may only be exercised by the Executive Scrutiny Board board within the remit of its terms of reference.
- 9.5 Call-in of decisions which may be contrary to the Budget and Policy Framework shall be governed by the provisions of the Budget and Policy Framework Procedure Rules set out elsewhere within this Constitution.

10 Call-In Procedure

- 10.1 An Executive decision shall be published within two working days of being made at the Council's main offices and on its website. All Members of the Council will be sent copies of all such decisions within the same timescale.
- 10.2 The decision notice will bear the date on which it is published and will specify that the decision will take effect and be implemented on the expiry of five clear working days after publication, unless called-in under this provision within that five clear working day period. The deadline for a call-in request will be specified in the decision notice.
- 10.3 During that period, the Monitoring Officer shall call-in a decision for scrutiny by the Executive Scrutiny Board if so requested by written notice by any three members of the Council who are not members of the Cabinet. The written notice must specify which decision-making principle has allegedly been infringed and the alternative course of action or recommendations that are proposed.⁶⁴
- 10.4 The Monitoring Officer may reject a call-in request if either:
- (a) The procedures set out in Procedure Rules 10.1 to 10.3 have not been properly followed;
 - (b) A similar decision has been previously called-in to the Board;
 - (c) The Executive decision has been recorded as urgent in accordance with Paragraph 13.1 below; or

⁶⁴ The Council's decision making principles are listed at [Part 1, Paragraph 22 of this Constitution](#).

- (d) The Monitoring Officer, in consultation with the Chair of the Executive Scrutiny Board, considers the call-in to be frivolous, vexatious or clearly outside the call-in provisions.

- 10.5 Upon deciding on its validity, the Monitoring Officer shall notify the member(s) concerned, the Leader and relevant Cabinet Member, the Chair and Vice Chair of the Executive Scrutiny Board and the Head of Paid Service.

11 Consideration by the Overview and Scrutiny Board

- 11.1 The Monitoring Officer will notify the Cabinet of the call-in and shall call a meeting of the board on such date as they may determine, where possible after consultation with the Chair of the Executive Scrutiny Board, and in any case within ten clear working days of the decision to call-in.
- 11.2 The signatories of the request for call-in will be expected to attend the meeting of the Executive Scrutiny Board to explain their reasons for the call-in and the alternative course of action or recommendations they wish to propose.
- 11.3 The call-in hearing will be conducted in accordance with any procedures the Council may adopt from time-to-time.⁶⁵
- 11.4 Having considered the call-in and the reasons given, the Executive Scrutiny Board may:
 - 11.5 Refer it back to the decision-making person or body for reconsideration, setting out the nature of its concerns and any alternative recommendations;
 - (a) Refer it to full Council (after seeking the advice of the Monitoring Officer and/or Chief Finance Officer) if it considers that the decision is outside the Council's Budget and Policy Framework; or
 - (b) Decide to take no further action, in which case the original Executive decision will take effect immediately.
- 11.6 If, following an objection to the decision, the overview and scrutiny board does not meet in the ten day period set out above, or does meet but does not refer the matter back to the Cabinet or to Council, the decision shall take effect on the date of the overview and scrutiny meeting, or the expiry of the ten day period, whichever is the earlier.

12 Decisions Referred Back to the Decision-Maker

- 12.1 If a decision is referred back to the original decision maker, that person or body shall then reconsider the matter, taking into account any concerns and

⁶⁵ [Meeting Procedure for Call-in of a Council Cabinet decision, adopted 18 September 2013](#)

recommendations of the Executive Scrutiny Board, and make a final decision, amending the decision or not, and give reasons for the decision.

- 12.2 If a decision relates to an Executive function only, the Cabinet can ultimately decide the matter, provided that it is in accordance with the Council's Budget and Policy Framework.
- 12.3 If the matter is referred to full Council and the Council does not object to a decision that has been made, then no further action is necessary and the decision will be effective immediately. However, if the Council does object and also concludes that the decision is outside the Budget or Policy Framework, then the provisions in the Budget and Policy Framework Procedure Rules apply.

13 Call-In and Urgency

- 13.1 The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision is urgent if:
 - (a) A call-in would prevent the Council reaching a decision that is required by statute or otherwise within a specified timescale; or
 - (b) Any delay likely to be caused by not making the decision would be likely to expose the Council, its Members or the public to a significant level of risk, loss, damage or disadvantage; and
 - (c) The reasons for urgency are reported to the decision-making body or person before the decision is taken.
- 13.2 The Executive decision-maker must decide that no call-in may be made on the grounds of urgency at the time the decision is made, and not subsequently. The decision note shall state whether the decision is an urgent one and the reasons, and therefore not subject to call-in.
- 13.3 The Chair of the Executive Scrutiny Board must agree to the decision being treated as a matter of urgency. In the absence of the Chair, the Vice Chair of the Executive Scrutiny Board's consent shall be required. In the absence of that person, the Mayor's consent shall be required. In the absence of the Mayor, the Deputy Mayor's consent shall be required.
- 13.4 Where an Executive decision is recorded as urgent, the Executive Scrutiny Board or relevant Scrutiny Review Board may retrospectively review actions arising from that decision but cannot delay its implementation.
- 13.5 Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

14 The Party Whip

- 14.1 The party whip is defined as "any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that

councillor shall speak or vote on any matter before the Council, board, or other body appointed by it, or the application or threat to apply any sanction by the group in respect of that councillor should s/he speak or vote in any particular manner.”

- 14.2 It is generally accepted that the Party Whip should be suspended in respect of Overview and Scrutiny matters. However, when considering any matter in respect of which a member of an Overview and Scrutiny board is subject to a formal Party Whip, the councillor must declare the existence of the whip, and the nature of it before the commencement of the board's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

15 Procedure at Overview and Scrutiny Board meetings

- 15.1 An Overview and Scrutiny board shall consider the following business:

- (a) minutes of the last meeting;
- (b) declarations of interest (including whipping declarations);
- (c) consideration of any matter referred to the board for a decision in relation to call-in of a decision;
- (d) responses of the Cabinet to reports of the board;
- (e) the business otherwise set out on the agenda for the meeting.

- 15.2 Where an Overview and Scrutiny board conducts investigations (e.g. with a view to policy development), it may also ask people to attend to give evidence at its meetings, which are to be conducted in accordance with the following principles:

- (a) the investigation be conducted fairly, and all members of the board be given the opportunity to ask questions of attendees, and to contribute and speak;
- (b) those assisting the board by giving evidence be treated with respect and courtesy; and
- (c) the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

- 15.3 Following any investigation or review, the relevant board shall prepare a report for submission to the Cabinet and/or Council as appropriate and shall, unless there are exceptional reasons, make its report and findings public.

16 Matters within the remit of more than one Overview and Scrutiny board

- 16.1 The Executive Scrutiny Board will have overall responsibility for co-ordinating the discussion of matters within the remit of more than one Overview and Scrutiny board. It can either elect to consider the matter itself or determine which of the relevant Overview and Scrutiny boards shall consider it. In either case, it may invite the Chair of the other board (or their nominee) to attend the relevant meeting and speak thereon and/or may refer its report to the other Overview and Scrutiny boards for comment before it is finalised.

17 Proceedings of Overview and Scrutiny board meetings

- 17.1 Meetings of the Overview and Scrutiny boards will be conducted in accordance with the Committee Procedure Rules insofar as is practicable, except that where the Overview and Scrutiny Procedure Rules differ from the Committee Procedure Rules, the Overview and Scrutiny Procedure Rules shall take precedence.

8. COUNCILLORS

Roles of Councillors and Office Holders

All Councillors

8.1 Responsibilities:

- (a) Hold an equal vote to decide on key areas of policy and other reserved matters, including the Council Plan, Budget, Policy Framework, Constitution, election of the Executive Leader and appointment of the Chief Executive;
- (b) Contribute to the good governance of the council and actively encourage community participation and citizen engagement in decision making;
- (c) Participate in the governance and management of the Council through a range of aspects of council decision making, policy development and scrutiny;
- (d) Both collectively and individually, facilitate the setting of a lawful budget and fulfil a fiduciary duty to ensure the Council manages public funds in a responsible way, maximising their value and use for public benefit.
- (e) Maintain the highest standards of conduct and ethics and observe the Councillors' Code of Conduct and the other codes and protocols adopted by the Council and set out in Part 8 of this Constitution;
- (f) Share responsibility with officers of the Council to act as effective and caring corporate parents for looked after children;
- (g) Be available to represent the Council on other bodies and attend meetings of bodies to which they are appointed;
- (h) Have due regard to the desirability of the Council exercising its functions in a way that is designed to:
 - (i) reduce the impact of its activity on the climate and the environment.⁶⁶
 - (ii) reduce the inequalities of outcome which result from socio-economic disadvantage⁶⁷.

8.2 Key Tasks

⁶⁶ [Declaration of Climate Emergency by Full Council, 22 May 2019](#)

⁶⁷ Compliance with the Socio-Economic Duty under section 1 of the Equality Act 2010, [adopted by the Council on 25 May 2022](#).

- (a) Develop and maintain a working knowledge of the Council's services, management arrangements, organisation and activities, powers/duties, and constraints.
- (b) Attend and participate effectively as a member of any committee to which the councillor is appointed.
- (c) Contribute actively to the formation and scrutiny of the Council's policies, budgets, strategies and services.
- (d) Participate in the activities of any outside body to which the councillor is appointed, providing two-way communication between the organisations, and reporting as required to the Council.
- (e) Maintain professional working relationships with all Members and Officers, in accordance with the Council's agreed protocols.
- (f) Participate in any training deemed mandatory by the Council⁶⁸, identify opportunities for further development as a councillor and keep abreast of developments in national and local government.

The Mayor

- 8.3 The Mayor is the Chair of the Council and is elected by the full Council at its Annual Meeting each year. The Council also elects a Deputy Mayor, who acts as Chair when the Mayor is not available. The Mayor (and the Deputy Mayor) undertake civil and ceremonial roles on behalf of the Council and represent both the Council and the City of Derby at events and engagements as appropriate.⁶⁹
- 8.4 Although the Mayor is an elected politician and is entitled to vote, they are expected to be impartial in the way they carry out the role.
- 8.5 The Mayor presides over meetings of the Council to ensure that business is carried out effectively and has responsibilities for upholding and interpreting this Constitution. Their ruling about this, or as to any proceedings of the Council, cannot be challenged at any meeting of the Council, although their interpretation must have regard to the purposes of this Constitution and must be reasonable. Neither the Mayor nor the Deputy Mayor can be the Leader or a Cabinet member.
- 8.6 The Mayor is responsible for, and must conduct themselves in accordance with the following:
 - (a) Upholding and promoting the purposes of this Constitution and interpreting it with appropriate advice when necessary;

⁶⁸ See the Councillor Training and Development Programme agreed annually by the Council.

⁶⁹ Additional protocols and guidance on the role of the Mayor are detailed within the [Mayoral Handbook maintained by Civic Services](#).

- (b) Presiding over meetings of the Council to ensure that business is carried out efficiently, effectively and fairly between the different political groups, whilst preserving the rights of councillors and the interests of members of the public;
- (c) Ensuring that at Council meetings, matters of concern to local communities can be debated through the appropriate councillors;
- (d) Ensuring that councillors who are not on the Cabinet or who do not Chair a main committee are able to hold those office holders to account;
- (e) Promoting public involvement in the Council's affairs and acting as a contact between members of the public, organisations and the Council;
- (f) Undertaking such other roles as may be placed upon the office from time to time by the Council.
- (g) Acting impartially and ensuring that the dignity of the office and Council is maintained at all times.

8.7 Key Tasks:

- (a) Chair all meetings of the full Council.
- (b) Demonstrate the standard of conduct and leadership to be expected from all councillors.
- (c) Represent the Council in the community and in discussions with regional, national and international organisations and others.
- (d) Attend functions appropriate to the position of Mayor and respond to invitations received by the Civic Office.⁷⁰
- (e) Act as host to visiting Royalty, civic dignitaries and other important visitors.
- (f) Meet with relevant officers to ensure the receipt of appropriate advice to enable effective decision making.

Ward Councillors

8.8 Responsibilities:

- (a) Be at the centre of community life:
 - (i) Spend time out and about, learning about the communities that you represent, supporting your residents, working with local organisations (such as GPs, schools, police, local businesses and voluntary organisations) developing a shared understanding

⁷⁰ See the [Mayoral Handbook maintained by Civic Services](#).

of local issues and ensuring that communities make the most of all the opportunities available to them.

(ii) Build good working relationships and earn the trust and respect of local partners, other members and council officers

(iii) Be an active member of local networks and partnerships, for example by acting as a school governor.

(iv) Communicate regularly with your community including communicating council policy and decisions, using your role to offer clear insight to the work of the Council.

(b) Effectively represent the whole community with a special duty to their constituents, including those who did not vote for them.

8.9 Key Tasks:

(a) Respond to constituents' enquiries and representations, fairly and impartially;

(b) Determine suitable methods for resident engagement, appropriate to the demographics of their wards and in partnership with the Council's Locality Officers.

(c) Participate, as appropriate, in consultation with community organisations and other organisations or bodies active within their wards.

(d) Contribute constructively to open government and democratic renewal through active encouragement to the community to participate in the governance of the Derby area.

Executive Leader

8.10 Responsibilities:

(a) Ensure efficient and effective services that are relevant to the needs of the community and the responsibility of Derby City Council, in the short, medium and long term.

(b) Provide visible political leadership in relation to citizens, stakeholders and partners in the overall co-ordination of policies, strategies and service delivery affecting the locality.

(c) Lead the Cabinet in its work to develop the Policy Framework and Budget and take overall political control of the Council within the agreed Policy Framework.

(d) Lead the development of local and regional strategic partnerships.

- (e) Ensure the appropriate representation of the Council on key outside bodies.
- (f) Demonstrate the standard of conduct and leadership to be expected from all councillors.

8.11 Key Tasks:

- (a) Provide leadership to the Council and its political administration, and lead the presentation of the recommendations, plans, policies and decisions of the Cabinet and the Council.
- (b) Represent the Council's political and strategic decision-making in the community and in discussions with regional, national and international organisations and others in order to pursue matters of interest to the Council and its communities and to keep the Council and the Cabinet informed accordingly.
- (c) Appoint members of the Cabinet and allocate Cabinet portfolios.
- (d) Develop and maintain good working relations and effective channels of communication with the Chairs of Overview and Scrutiny Boards.
- (e) Direct, manage and chair meetings of the Cabinet and to take responsibility, individually and/or collectively for any specific portfolio, including providing a political lead in proposing new policy, strategy, budget and service standards and reviews, as well as acting as spokesperson for the Council.
- (f) Direct the Chief Executive, and to meet regularly (with or without the Cabinet) with the Chief Executive and other relevant senior officers to consider and recommend action within approved policies and strategies.
- (g) Consider the development and training needs of the Cabinet and members generally and arrange for training sessions or suitable briefings as appropriate.
- (h) Receive and act as appropriate upon representations from councillors, the public, organisations and senior officers.

Cabinet Members

8.12 Responsibilities:

- (a) Take responsibility within the Cabinet on the basis of collective decision making and such individual delegation that may apply, for a portfolio of services or functions of the Council.

- (b) Share with fellow Cabinet Members any information, intelligence or factors considered relevant to the issues under consideration by the Council Cabinet.
- (c) Contribute actively through the portfolio and membership of the Cabinet to the formation, implementation, monitoring and scrutiny of the Council's policies, budgets, strategies and services.
- (d) Demonstrate the standard of conduct and leadership to be expected from all councillors.

8.13 Key Tasks:

- (a) Participate in the Cabinet and to implement agreed policies by taking responsibility individually and/or collectively for any portfolio allocated by the Executive Leader, including proposing new policy, strategy, programming, budget and service standards, and leading performance review.
- (b) Develop a clear understanding and in depth knowledge of the respective portfolio, the scope and range of the relevant services for which they are responsible and an awareness of current agreed policies and budgetary implications in respect of those services.
- (c) Consult and communicate with all members, council officers, key partners and the community as appropriate to ensure policies, strategies, budgets and decisions are well informed and that Council policies are widely understood and positively promoted.
- (d) Ensure that the Council is briefed at the appropriate time on significant issues within the respective portfolio, i.e. those that have financial or other major resource implications or which will result in a change to established policy.
- (e) Act as spokesperson for the Council and answer and account to the Council and the community on matters within their portfolio.
- (f) Work closely with the Chief Executive and other senior officers responsible for the services within their portfolio.
- (g) Maintain a close working relationship with the relevant Overview and Scrutiny Chairs and Vice Chairs, contributing to annual work programming, participating in performance reviews and having due regard for recommendations from Overview and Scrutiny.
- (h) Work with officers on the implementation of agreed plans, policies and programmes within their portfolio and inform the Cabinet of progress and performance.
- (i) Represent the Council and the Cabinet in the community and elsewhere as required by the Leader.

Committee Chairs and Vice-Chairs

8.14 Responsibilities:

- (a) Presiding over meetings of the Committee to ensure that business is carried out efficiently, fairly and effectively, preserving the rights of councillors and the interests of the public. This will include:
 - i) Upholding and promoting the purposes of this Constitution and interpreting it with appropriate advice when necessary;
 - ii) Within agreed terms of reference, ensuring that the business of committee meetings reflects issues of local concern or public interest.
 - iii) Where appropriate, promoting public involvement in the business of the committee and ensuring that appropriate advice and consultation is undertaken to inform decision making.
 - iv) Acting impartially and demonstrating high standards of conduct and leadership, in accordance with codes and protocols adopted by the Council.
- (b) Undertaking such other roles as may be placed upon the office from time to time by the Council.

8.15 Key Tasks:

- (a) Chairing meetings of the committee in accordance with the Committee Procedure Rules and any work programming, pre-agenda or evidence gathering meetings that may be held from time to time.
- (b) Liaising with relevant officers to ensure business is brought to the committee for consideration.
- (c) Consulting with committee members, relevant officers and Democratic Services on alterations or additions to the Council's agreed Schedule of Meetings.
- (d) Maintaining strong working relationships with officers involved with the work of the committee.
- (e) Making determinations on the consideration of urgent items of business.⁷¹
- (f) Routinely reviewing the effectiveness of the committee by making recommendations to Council about its terms of reference and any training that may be required.

Councillor Champions

8.16 The Council has chosen to appoint Councillor Champions who act as an

⁷¹ In accordance with S100B(4) of the [Local Government Act 1972](#)

advocate for a specific area of the Council's business, encouraging communication and positive action over the issue they represent.

8.17 Councillor Champions do not have a formal role in decision making or scrutiny and should work within the political management and working arrangements adopted by the Council at all times.

8.18 Councillor Champions are elected at the Council's Annual General Meeting and serve a one-year term. The Council has appointed the following Councillor Champions:

- (a) Anti-Fraud
- (b) Armed Forces
- (c) Children and Young People
- (d) Climate Change (one per political group)
- (e) Cycling
- (f) Disability
- (g) Gender
- (h) LGBTQ+
- (i) Mental Health
- (j) Minority Ethnic Communities
- (k) Older People
- (l) Safeguarding

8.19 Responsibilities:

- (a) Championing the adopted policies of the Council for the relevant theme
- (b) Promoting their area of interest both within and outside the Council
- (c) Keeping other councillors up to date with activities relevant to their area of interest
- (d) Keeping up to date with current developments in matters of national policy and discourse relating to their area of interest
- (e) Maintaining strong working relationships with the relevant Cabinet Member(s), to ensure Councillor Champions are consulted and views considered on matters relating to their area of interest.

8.20 Key Tasks:

- (a) At the start of each municipal year, agree with the relevant Cabinet Member and officers a programme of activity and SMART⁷² targets, taking into account the Council's priorities;

⁷² SMART targets – Specific, Measurable, Attainable, Realistic, Time-Bound.

- (b) Contribute to the review and development of policies pertaining to their area of interest;
- (c) Monitor Overview and Scrutiny plans and activity, seeking information and offering views on relevant review subjects;
- (d) Attend meetings of the Council, Cabinet and Committees to speak on issues relevant to their area of interest, with the prior consent of the Chair.

Councillors' Code of Conduct

The General Principles of Public Life

You should behave in a way consistent with the following principles:

Selflessness	You should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
Honesty and Integrity	You should not place yourself in situations where your honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
Objectivity	You should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
Accountability	You should be accountable to the public for your actions and the manner in which you carry out your responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to your particular office.
Openness	You should be as open as possible about your actions and those of your authority, and should be prepared to give reasons for those actions.
Leadership	You should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

Part 1

General provisions

Introduction and interpretation

1.1 This Code applies to **you** as an elected councillor or co-opted member of Derby City Council.

1.2 You should read this Code together with the general principles at page 2 (prescribed in Section 28 of the Localism Act).

1.3 You must comply with the provisions of this Code.

1.4 In this Code:

“interest” means a pecuniary or other interest required to be notified under this Code;

“meeting” means any meeting of:

(a) the authority;

(b) the executive of the authority;

(a) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

“councillor” refers to an elected member of Derby City Council;

“co-opted” member” refers to an individual appointed by a committee for the purpose of representing a particular area of interest or issue for consideration;

“partner” means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners;

“pecuniary interest” a disclosable pecuniary interest under relevant Regulations and this Code;

“Register of Interests” means the Council’s register of councillors and co-opted members’ interests maintained under section 29(1) of the Localism Act 2011; and

“Sensitive Interest” means an interest whose disclosure to the public could lead to you, or a person connected with you, being subjected to violence or intimidation.

1.5 In this Code:

To "bully" is defined as engaging in offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that

undermine, humiliate or injure the recipient; and

To "harass" is defined as engaging in unwanted conduct related to a protected characteristic as defined under the Equality Act 2010, that has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.

Scope

2.1 The Code applies to all forms of communication and interaction, including but not exclusively:

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

2.2 Subject to sub-paragraphs 2.3-2.6, you must comply with this Code whenever you act in your official capacity as a member of your authority. That is when you:

- (c) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
- (d) act, claim to act or give the impression you are acting as a representative of your authority.

Guidance Note:

Councillors shall be deemed to be operating on council business where they are:

- *Attending the Council House or other council premises;*
- *Undertaking duties at a council committee;*
- *Undertaking duties on an outside body or organisation to which Council has appointed them;*
- *Undertaking duties on an outside committee to which the Council did not appoint them, but the basis of their appointment was as an elected member of the Council;*
- *Undertaking casework on behalf of local constituents;*
- *Attending councillor surgeries;*
- *Attending council-supported neighbourhood activities;*
- *Delivering leaflets/letters that have been produced by the Council.*

2.3 Subject to sub-paragraphs 2.4 and 2.5, this Code does not have effect in relation to your conduct other than where it is in your official capacity.

Guidance Note:

Councillors shall not necessarily be deemed to be operating on council business where they are:

- *Going about ordinary everyday tasks not specific to their role as a councillor;*
- *Approached by a member of the public to discuss casework outside of a surgery or formal setting;*
- *Travelling before or after undertaking council business;*
- *Delivering leaflets on behalf of a political party or candidate*

2.4 In addition to having effect in relation to conduct in your official capacity, paragraphs 3.2(c), 5.1 and 6.1 also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

Guidance Note:

Under the Councillor Complaints Procedure, the Monitoring Officer will make the decision at initial assessment stage on whether a councillor was acting in their capacity as a councillor at the time of an incident leading to a complaint.

2.5 Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph 2.4) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

2.6 Where you act as a representative of your authority:

- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

3.1 You must treat others with respect.

Guidance Note:

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

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the Council, the relevant social media provider or the Police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the Working Together: Councillor – Officer Protocol and the Employee Code of Conduct.

3.2 You must not:

- (a) do anything which may cause your authority to breach any equality laws;
- (b) bully or harass any person;
- (c) intimidate or attempt to intimidate any person who is or is likely to be:
 - (i) a complainant;
 - (ii) a witness; or
 - (iii) Involved in the administration of any investigation or proceedings,

in relation to an allegation that a councillor or co-opted member (including yourself) has failed to comply with their authority's code of conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

4.1 You must not:

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have the consent of a person authorised to give it;

- (ii) you are required by law to do so;
- (ii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is:
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

5.1 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

Guidance Note:

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

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

5.2 You:

- (a) are expected to co-operate with any formal standards investigation relating to an alleged breach of this Code;
- (b) must not seek to make trivial or malicious allegations under the Standards process.

6.1 You:

- (a) must not use or attempt to use your position as a councillor or co-opted member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage, including, but not restricted to, making representations to
 - (i) officers to influence the processing of individual taxi licensing applications; or

- (ii) sub-committees on behalf of the taxi trade or individual taxi drivers;
- (b) must, when using or authorising the use by others of the resources of your authority—
 - (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to:
 - (i) any applicable Code of Recommended Practice on Local Authority Publicity made under the Local Government Act 1986; and
 - (ii) the regulatory standards of the authority in consideration of any representations that may be made from stakeholders including, but not restricted to, the taxi trade.

7.1 When reaching decisions on any matter you must have regard to any relevant advice provided to you by:

- (a) your authority's Chief Finance Officer; or
- (b) your authority's Monitoring Officer,

where that officer is acting pursuant to their statutory duties.

7.2 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Part 2

Pecuniary Interests

You must disclose the pecuniary interests listed below. There can be a criminal penalty if you do not.

Notification of Pecuniary Interests

8.1 A pecuniary interest is an interest of yourself or your partner within the following descriptions:

Subject	Prescribed description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a Member in carrying out their duties, or towards the election expenses of a Member. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a)
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority: (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to a Member's knowledge) – (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where- (a) that body (to a Member's knowledge) has a place of business or land in the area of the relevant authority; and (b) either: (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

	(ii) if the share capital of that body is of more than one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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Non-participation where you have a pecuniary interest

- 9.1 Where you have a pecuniary interest in any business of your authority you must disclose the interest and withdraw from the room or chamber where a meeting considering the business is being held unless:
- a. you have obtained a dispensation from the authority's Monitoring Officer or Standards Committee;
 - b. It is a meeting at which the public can speak, in which case you may address the meeting but then immediately withdraw.
- 9.2 If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.
- 9.3 Where a Cabinet Member may discharge a function alone and becomes aware of a pecuniary interest in a matter being dealt with or to be dealt with by them, the Cabinet Member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

Dispensations

- 10.1 The council may grant you a dispensation, but only in specified circumstances, to enable you to participate and vote on a matter in which you have a pecuniary interest.
- 10.2 Applications for dispensation must be made in writing to the Monitoring Officer before the meeting at which the matter is to be discussed.

Offences

- 11.1 It is a criminal offence to:
- (a) Fail to notify the Monitoring Officer of any pecuniary interest within 28 days of election;
 - (b) Fail to disclose a pecuniary interest at a meeting if it is not on the register;
 - (c) Fail to notify the Monitoring Officer within 28 days of a pecuniary interest that is not on the register that you have disclosed to a meeting;
 - (d) Participate in any discussion or vote on a matter in which you have a pecuniary interest;

- (e) As a Cabinet Member discharging a function acting alone, and having a pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest; and
- (f) Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a pecuniary interest or in disclosing such interest to a meeting.

11.2 The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

Notification of Gifts and Hospitality

12.1 You must, within 28 days of receipt notify the Monitoring Officer of any gifts and hospitality you have received with an estimated value of over £50.

Guidance Note:

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor.

The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult, if it is seen as rudeness, in which case you could accept it but must ensure it is publicly registered.

You do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, contact the Monitoring Officer for guidance.

12.2 You must register with the Monitoring Officer any significant gift or hospitality that you have been offered but have refused to accept.

12.3 You must disclose the receipt of that gift or hospitality and its nature and extent where it is relevant to the matter under consideration unless it was registered more than 3 years before

Interests arising in relation to Overview and Scrutiny Boards

13.1 In any business before an Overview and Scrutiny Board of your authority (or of a sub-committee of such a committee) where:

- (a) that business relates to a decision made (whether implemented or not) or action taken by the executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee

or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

You may only attend a meeting of the Overview and Scrutiny Board for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

Part 3

Other Registerable Interests

Disclosing Other Registerable Interests

- 14.1 Where a matter arises at a meeting which directly relates to the financial interest or wellbeing of one of your Other Registerable Interests (as set out at 14.2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting, but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
- 14.2 Other Registerable Interests are:
- a) any unpaid directorships.
 - b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority.
 - c) any body (i) exercising functions of a public nature (ii) directed to charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.

Part 4

Registration of Interests

Registering your interests

- 15.1 You must notify the Monitoring Officer of any interest you have within 28 days of:
- (a) becoming a councillor or co-opted member;
 - (b) disclosing an interest in any matter being considered at a meeting (if that interest is not already on the Register of Interests);
 - (c) (if you are an executive member) becoming aware of an interest in any matter to be dealt with, or being dealt with.
- 15.2 Any interests notified to the Monitoring Officer will be included in the register of interests.
- 15.3 A copy of the register will be available for public inspection and will be published on the authority's website.

Sensitive interests

- 16.1 Where you consider that you have a sensitive interest, and the Monitoring Officer agrees:
- (a) if the interest is entered on the Register of Interests, any copy of the Register of Interests made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld
 - (b) If the interest is not entered on the Register of Interests, at any relevant meeting you must disclose the fact that you have a disclosable interest, but not the nature of the interest
- 16.2 You should, within 28 days of becoming aware of any change of circumstances which means that your interest is no longer sensitive, notify the Monitoring Officer.

Councillor Complaints Procedure

Receipt of complaint and acknowledgement to complainant

1. Complaints will only be considered where the proper complaint form has been completed in full, whether electronically or in hard copy, including the screening questions.
2. Receipt of a completed form will be acknowledged within five working days. Notification that a complaint which has been submitted is incomplete and cannot be progressed will be notified within the same timescale.

Complainant requests to protect their identity

3. It is normal that Subject Members will have a right to know the name of the person who is complaining about them. The Monitoring Officer will consider any request made by the complainant to protect their identity; this will only be allowed in exceptional circumstances.
4. Where the Monitoring Officer agrees to the request, the complaint shall proceed on that basis.
5. Where the Monitoring Officer does not agree to the request, then the subsequent steps in this procedure shall be suspended until such time as it has been established whether the complainant is willing for the complaint to proceed on the basis that their identity shall not be protected.
6. In the event that the Monitoring Officer does not accept the request and the complainant is unprepared for their identity to be revealed to the Subject Member, then the complaint shall be dismissed. The complainant shall be notified within five working days of this decision.

Notification to the Subject Member

7. The Subject Member will also be notified of the complaint within five working days of receipt. They will be provided with:
 - a) A summary of the complaint, including which part of the Members' Code of Conduct it is alleged they have breached;
 - b) The name of the complainant, unless the Monitoring Officer has agreed to a request to protect their identity; and
 - c) Their right to consult with an Independent Person. The definition of an Independent Person and the terms of any consultation with Subject Members is detailed in Appendix A.
8. The Subject Member may submit their comments about the complaint to the Monitoring Officer. Any comments must be in writing (by letter or email) and submitted within seven days of the member being sent the response by the Monitoring Officer.

Monitoring Officer Initial Consideration

9. The Monitoring Officer will consider whether the complaint relates to any other proceedings, such as court matters, that would make it inappropriate for consideration through the Councillor Complaints process. If the Monitoring Officer considers it would not be appropriate for consideration, the complainant will be advised as soon as practicable.
10. An Independent Person Advisory Panel will be made aware of the complaint and will recommend to the Monitoring Officer whether, in its view, the complaint is so serious that it should be escalated to the Monitoring Officer Assessment Stage. The Monitoring Officer will make a determination following consideration by the advisory panel.

Initial Screening Stage

11. The Initial Screening Stage will be undertaken by either the Monitoring Officer or by an officer within either the Legal or Democracy Services on behalf of the Monitoring Officer. Any final determination to not proceed with a complaint on the basis that it is subject to other investigatory proceedings, or to refer the complaint to a political group, will be made by the Monitoring Officer.
12. Subject to Paragraph 13, the decision following the Initial Screening Stage will be one of the following:
 - a) To refer a matter to a political group, where the subject is a member of that group, on the basis that the complaint has the potential to be considered politically influenced. The grounds for this finding are detailed in Appendix B; or
 - b) To progress the complaint to the Monitoring Officer Assessment Stage.
13. No decision shall be taken to refer a matter to a political group without first consulting the Independent Advisory Panel.
14. Where it has been determined to refer a complaint under paragraph 12(a), the complainant and the group will be notified within five days of the decision. The process for this is detailed in Appendix C.

Monitoring Officer Assessment Stage

15. The Monitoring Officer shall consider the complaint during the Monitoring Officer Assessment Stage and determine whether it warrants progression to the Independent Person Consultation Stage.
16. During this assessment, the Monitoring Officer may dismiss the complaint on the basis of any of the following:
 - a) The subject of the complaint was not an elected member of the authority at the time of the event(s) detailed in the complaint, or is no longer an elected member of the authority;

- b) The subject of the complaint was acting in a personal capacity rather than in their capacity as an elected member of the authority at the time of the event(s) detailed in the complaint. Guidance on this is detailed in Appendix D;
 - c) The subject of the complaint has since taken steps to remedy the situation, and those steps are proportionate to the allegations and result in there not being a public interest in the complaint being pursued;
 - d) A similar complaint has been received and/or the complaint may be considered to be part of a series of complaints and/or the complaint could be considered to be vexatious;
 - e) The complaint, even if proven, would not constitute a breach of the paragraph in the Members' Code of Conduct as identified by the complainant.
 - f) The complaint is such that it is unlikely that an investigation will be able to form a firm conclusion on the matter. This could be where neither the complainant or subject member have been able to provide substantiating evidence and where the Monitoring Officer, having given consideration to the severity of the allegation and having taken reasonable steps to identify any additional evidence that may exist, is of the opinion that there is no reasonable likelihood of a complaint being upheld. An example of this could be two conflicting accounts of a telephone conversation, with no means of independently verifying the contents of the call.
17. Where it has been determined that any of the grounds for dismissing the complaint detailed in Paragraph 16 apply, the complainant and Subject Member shall be notified within five working days.
18. Where it has been determined that none of the grounds under Paragraph 16 apply, the matter will progress to the Independent Person Consultation Stage.

Independent Person Consultation Stage

19. An Independent Person, as defined in Appendix A, shall be provided with a copy of the complaint and notified of the various grounds for referral or dismissal which it has been determined do not apply.
20. The Independent Person shall recommend one of the following courses of action to the Monitoring Officer:
- a) That the matter should not be pursued and no further action should be taken on the basis that one or more of the following apply:
 - i. The complaint does not cross the threshold of seriousness to warrant an investigation;
 - ii. The Independent Person is not satisfied that even if the complaint was proven, it would result in a breach of the part of the

Councillors' Code of Conduct which the complainant has identified; or

- iii. It is not in the public interest to pursue the matter.
 - b) That a remedy or informal resolution, such as an apology from the Subject Member, should be pursued as an alternative to an investigation, on the basis that it is likely that there has been a breach but that an informal intervention would spare the time and expense of an investigation;
 - c) That the complaint is sufficiently serious that it would be in the public interest to undertake an investigation.
21. The Monitoring Officer shall determine the outcome in consideration of the Independent Person's advice.
22. Where it has been determined to pursue Paragraph 20(a), both the complainant and Subject Member shall be notified within five working days.
23. Where it has been determined to pursue Paragraph 20(b) and following completion of the informal resolution, both the complainant and the Subject Member shall be notified that the matter has now concluded.
24. Where it has been determined to pursue Paragraph 20(b) but where the Subject Member does not agree to the proposed informal resolution, the Monitoring Officer may re-consult with the Independent Person on whether Paragraph 20(a) or 20(c) should be applied.
25. Where it has been determined to pursue Paragraph 20(c), the matter shall progress to an investigation and a report will be prepared for consideration by the committee. In the event that a member of the committee is either subject to a complaint or a complainant, their attendance at the meeting shall be in that capacity only and not as part of the decision-making body.

Monitoring Officer referrals

26. Under certain circumstances, it may be necessary for the Monitoring Officer to refer matters to the Standards Committee which have not been raised as complaints. This may arise, for example, when the Monitoring Officer has been made aware of conduct which may constitute a breach.
27. In these circumstances, the Monitoring Officer will report the matter for information and the committee's powers shall not extend beyond noting the report
28. If the committee agrees that the matter reported by the Monitoring Officer is of sufficient gravity that it potentially warrants further investigation, irrespective of whether a complaint has been received, then the matter can be referred to the Independent Person Advisory Panel for consideration (see paragraph 10).

Investigation

29. Where a complaint has been referred for investigation, the Monitoring Officer will appoint an Investigator to conduct an investigation. The investigator could be a council officer or if the Monitoring Officer considers it appropriate, they may appoint a suitably qualified external investigator.
30. The investigator will carry out such interviews as they feel appropriate. Interviewees will be asked to consider and agree with any notes taken at such interviews. If appropriate in the investigator's and/or Monitoring Officer's opinion, interviews may be recorded and stored for future evidence purposes, in accordance with Data Protection legislation. On completion of the investigation the investigator will produce a draft report which will be shared with the Subject Member and the complainant(s). The Subject Member and complainant(s) will be given seven days to provide any comments on the draft report. Once the investigator has considered any comments they will produce their final report to the Monitoring Officer.
31. The investigation will be carried out thoroughly but also proportionately taking into account the requirements of natural justice, the complexity and seriousness of the complaint(s) and the resources of the Council.
32. Following receipt of the investigation report, the Monitoring Officer will send a copy to the complainant(s) and the Subject Member.
33. If the investigator concludes that there has been no failure on the part of the Subject Member to comply with the Code of Conduct, the monitoring officer will consult with the Independent Person. Where the Monitoring Officer is satisfied that the investigation has been carried out appropriately, that will be the end of the matter and the Subject Member and the complainant(s) will be advised of the decision. The Monitoring Officer may ask the investigator to review their conclusions or carry out further investigations if the Monitoring Officer is not satisfied that the investigation has been carried out appropriately.
34. If the investigator concludes that there has been a failure to comply with the Code then the Monitoring Officer, in consultation with the Independent Person, will either;
 - a) Refer the investigator's report to the Hearings Panel for a hearing;
 - b) Or seek an informal resolution.
35. An informal resolution could be in the form of an apology or mediation or such other solution as the Monitoring Officer considers to be a reasonable resolution of the complaint.

Hearing

36. Where a hearing is required, the Monitoring Officer will undertake a pre-hearing process in accordance with Appendix E.
37. Any hearing will be conducted in accordance with the procedure at Appendix F. Hearings are not a court. Evidence will not be taken on oath and persons

attending the hearing will not be expected to stand. The principles of natural justice will be applied. All comments or questions must be put through the Chair. The Panel will reach its decisions on the balance of probabilities based on the evidence presented to it. The decisions of the Panel will be final and there will be no right of appeal.

Appendix A – Independent Persons

1. An Independent Person may be any of the following:
 - a) An Independent Person appointed to the Standards Committee by Council;
 - b) A person appointed to undertake this role by the Monitoring Officer due to unavailability of a person detailed at paragraph 1(a).
2. Independent Persons will undertake three distinct roles during the consideration and assessment of complaints, as follows:
 - a) A panel of Independent Persons shall form an Independent Person Advisory Panel. The panel's discussions may be summoned in person or conducted over email/telephone. The composition of the panel shall be determined by the Monitoring Officer;
 - b) An individual Independent Person shall provide support and/or advice to a Subject Member;
 - c) An individual Independent Person shall provide support and/or advice to the Monitoring Officer on actions arising from complaints that have progressed beyond the Monitoring Officer Assessment Stage.
3. The Independent Persons undertaking roles detailed in 2(b) and 2(c) shall not be the same person in any individual investigation, but the same Independent Person may undertake either of those roles across different investigations and be part of the Independent Person Advisory Panel.
4. Where an Independent Person is undertaking the role detailed in 2(b), their remit shall be:
 - a) To answer any questions the Subject Member may have about the complaint;
 - b) To assist the Subject Member by talking through the complaint or by challenging the Subject Member to assist them in understanding whether they may have breached the Code of Conduct, or whether they have a strong defence to show that there has not been a breach;
 - c) To take notes to assist the Subject Member and provide any guidance. Any notes will need to be agreed by both parties before being submitted as any form of evidence.

5. All Independent Persons duly appointed to the Standards Committee shall be entitled to attend a Standards Committee hearing where any investigation is discussed, but will be required to declare the role they have undertaken.

Appendix B – Finding that matter has potential to be politically influenced

1. Consideration shall be given to the responses provided by the complainant to the screening questions when determining whether a complaint may be politically influenced.
2. Determination that a complaint has the potential to be politically influenced is not confirmation that the complaint is necessarily politically motivated. However, the existence of the potential creates risks around the matter being adjudicated by an officer of the council.
3. It is acceptable for other sources to be used when considering this matter, such as opinion that has been published in the name of the complainant, and public records of candidates and signatories in local and General Elections.
4. A complaint may be considered to have the potential to be politically influenced when it has been submitted by any of the following, or when such persons have assisted in the preparation of a complaint:
 - A current councillor or MP;
 - A candidate in elections for any of the above within the previous three years;
 - A person who is (or has in the last three years been) closely linked to any of the persons detailed above, including political agents and active supporters of political parties and groups.
5. The decision of the Monitoring Officer shall be final.

Appendix C – Procedure for notifying political groups of complaint referrals

1. A matter shall only be referred where the complaint relates to a subject who is a member of a political group of the local authority. Complaints made against ungrouped or independent councillors shall not be referred to political groups. In these circumstances, the Monitoring Officer shall speak to the Councillor concerned.
2. Only the relevant political group as detailed in Paragraph 1, above, shall be notified of the complaint.
3. The referral shall be made by the Monitoring Officer, or an officer acting on behalf of the Monitoring Officer, providing a member of the political group, as detailed in Paragraph 4, below, with: (a) A copy of the complaint, subject to any necessary redactions where the Monitoring Office has previously agreed to an individual's identity being redacted; (b) Notification of the basis for the referral.

4. The member of the political group who is notified of the referral shall be any one of the following:
 - a) The Leader of that group;
 - b) The Deputy Leader of that group;
 - c) The Group Whip;
 - d) A member of the group who has been nominated by their group specifically for the purposes of receiving such notifications; or
 - e) A member of the group who has been appointed to the Standards Committee.
5. Where the Subject Member is one of the individuals detailed in Paragraph 4, that person shall not be the group representative who receives the notification.
6. It is for the political group to utilise its disciplinary proceedings in handling the complaint. Except in the specific circumstances detailed in Paragraph 7, below, the Council and its officers shall not become involved in any discussions with any person, including the complainant, regarding:
 - a) The disciplinary procedures operated by the political group;
 - b) The application of those procedures; or
 - c) The outcome of the referral.
7. Notwithstanding the independence of procedures which groups can apply as detailed above, groups handling complaints will be required:
 - a) To confirm to the complainant and to the Monitoring Officer and/or a representative of the Monitoring Officer that a process has been applied within four weeks of receiving the complaint;
 - b) To confirm to the complainant and to the Monitoring Officer that the matter has been resolved and to provide a written summary detailing the outcome and what actions have been taken as a result within 12 weeks of receiving the complaint.
 - c) Where the Monitoring Officer has agreed to a request that the complainant's identity be protected, officers will assist to communicate any updates and the final decision to the complainant. This line of communication shall not extend to seeking updates from the political group on behalf of the complainant beyond those detailed in paragraph 7.

Appendix D – Members acting in their capacity as a councillor

1. Complaints shall be dismissed during the Monitoring Officer Assessment Stage where it is deemed that the councillor was not acting in their capacity as

a councillor at the time of the incident(s) detailed in the complaint, subject to the clause in paragraph 4, below. This Appendix seeks to offer guidance but is not an exhaustive list.

2. Councillors shall be deemed to be operating on council business where they are:
 - Attending the Council House or other council premises;
 - Undertaking duties at a council committee;
 - Undertaking duties on an outside body or organisation to which Council has appointed them;
 - Undertaking duties on an outside committee to which the Council did not appoint them, but the basis of their appointment was as an elected member of the Council;
 - Undertaking case work on behalf of local constituents;
 - Attending councillor surgeries;
 - Attending Councillors on Patrol or other council-supported neighbourhood activities;
 - Delivering leaflets/letters that have been produced by the Council.
3. Councillors shall not necessarily be deemed to be operating on council business where they are:
 - Going about ordinary everyday tasks not specific to their role as a councillor;
 - Approached by a member of the public to discuss casework outside of a surgery or formal setting;
 - Travelling before or after undertaking council business;
 - Delivering leaflets on behalf of a political party or candidate.
4. The Monitoring Officer shall make the decision at initial assessment stage on whether a councillor was acting in their capacity as a councillor at the time of an incident leading to a complaint.

Appendix E - The pre-hearing process

1. Where, following the completion of an investigation, a decision is made to refer the matter for hearing, the Monitoring Officer shall provide the information in paragraph 2, on the understanding that it be treated as confidential, to
 - the Subject Member;

- the Hearing Panel;
 - the Independent Person; and
 - the standards committee of any other authority, other than a parish council, of which the person who was the subject of the investigation is a member, if that other authority so requests.
2. The information that is to be provided is as follows:
- a copy of the Investigating Officer's final report,
 - any documents relied upon by the Investigating Officer in reaching the conclusion in his or her final report,
 - a copy of the hearing procedure, and
 - a covering letter explaining what will happen next.
3. The Subject Member will be asked to provide a written response, within 10 working days, stating whether or not they:
- disagree with any of the findings of fact in the Investigating Officer's final report, including the reasons for any disagreement;
 - wish to attend the hearing • want to be represented at the hearing (at their own expense) by a solicitor, barrister or any other person;
 - want to give evidence at the hearing, either verbally or in writing;
 - want to call relevant witnesses to give evidence at the hearing;
 - want any part of the hearing to be held in private;
 - want any part of the final report or other relevant documents to be withheld from the public; and
 - will be unavailable on any dates within the next three months.
4. The Monitoring Officer will request the Subject Member to make clear in their response any disagreements they have with the findings of fact in the Investigating Officer's final report, as the Subject Member will not be allowed to raise new disagreements at the hearing unless the Hearing Panel agrees there are good reasons to permit these.
5. The Monitoring Officer will inform the Subject Member that to be represented at the hearing by a person other than a barrister or solicitor will require the permission of the Chair of the Hearing Panel in advance of the hearing. The Chair of the Hearing Panel may refuse permission if they believe that the non-legal representative is directly involved in the matter being determined.

6. The Monitoring Officer will inform the Subject Member that the Chair of the Hearing Panel and/or the investigating officer may call such witnesses as considered appropriate. The Monitoring Officer shall also inform the Subject Member that he/she may call witnesses, subject to the Chair of the Hearing Panel's power to limit the number of witnesses where the number requested is unreasonable.
7. The Chair of the Hearing Panel may request the attendance of any additional witnesses to be present at the hearing whose evidence may assist the Hearing Panel with its decision.
8. The Monitoring Officer in consultation with the Chair of the Hearing Panel, will then write to the persons referred to at paragraph 1 at least two weeks before the hearing to:
 - set the date, time and place for the hearing;
 - summarise the allegation(s);
 - outline the main facts of the case that are agreed;
 - outline the main facts which are not agreed;
 - note whether the member concerned or the Investigating Officer will attend or be represented at the hearing;
 - list those persons to be invited to the hearing, including the Independent Person and those witnesses, if any, who will be asked to give evidence;
 - indicate whether any part of the hearing should be in private or any documents or parts of documents withheld from the public; and
 - outline the proposed procedure for the hearing.

Appendix F - The hearings procedure

1 The Panel

- 1.1 The Hearings Panel (a Sub-Committee of the Council's Standards Committee) shall comprise a maximum of five members of the Council's Standards Committee, including not more than one member of the authority's Cabinet. The appointed Hearings Panel shall nominate a Hearings Panel Chair.
- 1.2 The Independent Person shall be invited to attend all meetings of the Hearings Panel.
- 1.3 The quorum for hearings by the Panel shall be three members of the Panel.

2 Opening

- 2.1 The Chair shall explain the procedure for the hearing and ask all present to introduce themselves.

3 Consideration of Exclusion of the Press and Public

- 3.1 Hearings will normally take place in public. The press and public may only be excluded from a hearing if the grounds in Schedule 12A of the Local Government Act 1972 are made out. The Hearings Panel shall invite representations from the Subject Member (or their representative) and the Investigating Officer before making any decision on whether to exclude the press or public.

4 The Complaint

- 4.1 The Investigating Officer shall be invited to present their report, including any documentary evidence, call such witnesses, including the complainant, as they consider necessary and make representations to substantiate their conclusion that the member has failed to comply with the Code of Conduct. The report and documentary evidence must be based on the complaint made to the Council, any additional points will not be allowed.
- 4.2 The Subject Member against whom the complaint has been made (or their representative) may question the Investigating Officer upon the content of their report and may question any witnesses called by the Investigating Officer. (This is the Council member's opportunity to ask questions arising from the investigator's report, but not to make a statement).
- 4.3 Members of the Hearings Panel may question the Investigating Officer upon the content of their report and/or question any witnesses called by the Investigating Officer.

5 The Subject Member's Case

- 5.1 The Subject Member, against whom the complaint has been made, (or their representative) may present their case (and call witnesses as required).
- 5.2 The Investigating Officer may question the Subject Member and/or any witnesses.
- 5.3 Members of the Hearings Panel may also question the Subject Member and/or any witnesses.

6 Summing Up

- 6.1 The Investigating Officer shall sum up the complaint.
- 6.2 The Subject Member (or their representative) may sum up their case.

7 Decision

- 7.1 Members of the Hearings Panel will deliberate in private to consider the complaint in consultation with the Independent Person prior to reaching a decision.
- 7.2 On the return of the Hearings Panel, the Chair will announce the Panel's decision in the following terms:
- a) the Hearings Panel decides that the Subject Member has failed to follow the Code of Conduct or;
 - b) the Hearings Panel decides that the Subject Member has not failed to follow the Code of Conduct.

The Hearing Panel will give reasons for its decision. The Hearings Panel may give a brief summary of its reasons with more detailed written reasons to follow.

- 7.3 If the Hearings Panel decides that the Subject Member has failed to follow the Code of Conduct, the Panel will give the member the opportunity to make representations to the Panel and will consider any representations from the Investigating Officer as to:
- a) whether any action should be taken and,
 - b) what form any action should take.
- 7.4 The Hearings Panel shall then deliberate in private, in consultation with the Independent Person, to consider what action, if any, should be taken.
- 7.5 On the return of the Hearings Panel, the Chair shall announce the Panel's decision as to any actions which the Hearings Panel resolves to take.
- 7.6 The Hearings Panel shall consider whether it should make any recommendations to the Council with a view to promoting high standards of conduct among Council members.
- 7.7 At the end of the meeting, the Chair shall confirm that a formal decision notice will be prepared by the Monitoring Officer and that within seven working days following the Hearing, a copy will be sent to the complainant, and to the Subject Member. The Chair shall also confirm that the decision notice will be made available for public inspection and the decision reported to the next convenient meeting of the Council.

Councillor/Officer Protocol

Working Together: Protocol on best practice for effective relationships between Councillors and Officers

Principles

1. Under executive arrangements the roles of councillors and officers remain distinct. Councillors are not employees, are responsible to their electorate and serve only as long as their term of office lasts. Officers are employees who serve the whole Council.
2. Mutual respect between councillors and officers is essential for good local government. The different accountabilities between the two need to be understood and respected.
3. Despite their different accountabilities, councillors and officers will discharge their duties in accordance with both the Council's values and the ethical framework in which the authority seeks to conduct its activities.
4. All of the Council's activities are underpinned by the Council's four core values which, put simply, reinforce that we – the Council, its councillors and officers – are here for Derby.
5. Our values and behaviours describe who we want to be and how we will achieve this. This is the basis of who we are, the way we work and the type of people we like to employ. Our values inform our future and set us on the right path.

The Council's values are:

We are Bold – we have the courage to speak up, challenge current systems and practices, and feel empowered to take appropriate and measured risks.

We are Strong – we excel using our strengths and have the confidence to ask for help and support where we need to.

We Care – caring is what motivates us. We care about what we can achieve for Derby.

Great People, One Team – We are great people working as one team: we get the best of each other and together achieve great things for Derby.

6. The Council believes that out of mutual respect a healthy atmosphere will prevail, where all councillors feel free to question and challenge officers and where officers feel free to manage and to offer full and frank advice to councillors.

Roles of Councillors

7. Under executive arrangements, councillors within the Council Cabinet will have different responsibilities from those outside.

Representational Role

8. However, all councillors have the important role of representing their electorates. The Government sees councillors having a crucial role to play on consulting their communities on the development of policy and council decision making.

Council Role

9. All councillors acting together as Council will decide the policy framework and budget.

Regulatory Role

10. Councillors will be appointed to the committees taking decisions on non-executive functions such as planning control and licensing.

Overview and Scrutiny Role

11. Non-executive councillors will carry out, through Overview and Scrutiny Boards, the roles of:
 - assisting in the development of Derby City Council policy; and
 - questioning and evaluating the executive.

Executive Role

12. The members of the executive will have the following leadership roles:
 - leading the preparation of the council's policies and budget
 - taking decisions to deliver the budget and policies
 - being the partnership forming focus of the council

Roles of Officers

13. Officers are responsible for:
 - taking day-to-day managerial and operational decisions; and
 - advising and supporting all councillors in their above roles
14. Senior officers, particularly the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer, have additional roles in arbitration: to ensure that council business is conducted fairly and with propriety if needs be by negotiating with and between political groups.

15. The three specific statutory roles are undertaken by the Chief Executive (Head of Paid Service), the Director of Corporate Governance, Property and Procurement (Monitoring Officer) and the Director of Finance (Chief Finance Officer) respectively. Statutory responsibilities are given which underpin the fundamental principles of political neutrality and service to the whole council.
16. Officers are employed by, and accountable to, the council as a whole.

Expectations

17. Councillors can expect from officers:
 - (a) a commitment to the council as a whole, and not to any political group;
 - (b) a working partnership;
 - (c) an understanding of, and support for, respective roles, workloads and pressures;
 - (d) timely responses to enquiries and complaints;
 - (e) professional advice, not influenced by political views or preference, which does not compromise the political neutrality of officers;
 - (f) regular, up-to-date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;
 - (g) awareness of, and sensitivity to, the political environment;
 - (h) respect, dignity and courtesy;
 - (i) training and development in order to carry out their role effectively;
 - (j) integrity, mutual support and appropriate confidentiality;
 - (k) not to have personal issues raised with them by officers outside the agreed procedures;
 - (l) that employees will not use their relationship with councillors to advance their personal interests or to influence decisions improperly;
 - (m) that officers will at all times comply with the relevant Code of Conduct; and
 - (n) support for the role of councillors as the local representatives of citizens, within any scheme of support for councillors which may be approved by the authority.
18. Officers can expect from councillors:
 - (a) a working partnership;

- (b) an understanding of, and support for, respective roles, workloads and pressures;
 - (c) political leadership and direction;
 - (d) respect, dignity and courtesy;
 - (e) integrity, mutual support and appropriate confidentiality;
 - (f) not to be subject to bullying or undue pressure;
 - (g) not to be subject to unwarranted criticism, particularly in situations where the officer cannot respond on equal terms, such as in public meetings;
 - (h) that councillors will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly; and
 - (i) that councillors will at all times comply with the relevant Code of Conduct.
19. The relationship between councillors and officers is underpinned by respect and a mutual understanding of differing roles and accountabilities.
 20. Residents will often approach their local councillor once conventional methods of redress have been exhausted. Officers should therefore recognise enquiries from councillors as a point of escalation.
 21. Councillors can expect from officers a prompt response to their enquiries; whilst officers should not be placed under undue pressure by councillors to resolve issues within unreasonable timescales.
 22. Standard casework enquiries from councillors will be acknowledged by officers within two working days and resolved within five working days. For more complex cases, officers will provide regular updates to the councillors concerned.

Relationship between Officers and the Leader/Council Cabinet members

23. Even though officers serve the whole council, it is inevitable that officers, and senior officers in particular, will have a closer working relationship with members of the Council Cabinet than they will with other councillors. Officers can therefore have a difficult job in balancing the sometimes conflicting demands of delivering professional judgement and advice; satisfying the need of the majority party; and retaining the confidence of the minority parties.
24. However, one of the aims of the executive arrangements is to ensure that decision making within a council is transparent. Executive councillors will be personally identified and held to account. They are therefore entitled to receive the best possible support and advice from their officers.

25. The Government recognises the potential for tension between chief officers and executive members. This can be avoided by all involved recognising the particular roles set out in parts 2 and 3 of this protocol for both councillors and officers.

Overview and Scrutiny

26. While the majority of officers will effectively support the executive, a relatively small number will support the Overview and Scrutiny Boards. There is a potential for conflict here between officers. However, the council expects that every help and facility will be extended to officers undertaking their duties even when they are involved in the questioning of executive decisions based on officer advice.
27. First, second and third tier officers can be asked to appear before Overview and Scrutiny Boards to answer questions relating to the financial, legal, professional and technical aspects of service provision.

Officers' Relationship with Political Groups

28. Officer attendance at political group meetings is likely to be the exception. However, there may be particular advantages to be gained from such attendance.
29. An opposition group may decide to establish a Shadow Cabinet made up of its Spokespeople. Where there is more than one opposition group, only one Shadow Cabinet may be established, the membership of which may include Spokespeople from one or more groups.
30. Requests for officers' attendance at political group or Shadow Cabinet meetings should in the first instance be made to the Chief Executive. Where attendance at a full political group meeting is agreed, the Chief Executive will notify the other political groups and offer them a similar facility. Officers will not be expected to attend all Shadow Cabinet meetings but rather to attend when a particularly significant matter on the agenda of a Council Cabinet meeting is due to receive prior consideration by the Shadow Cabinet.
31. Councillors must not request officers to carry out work for, or on behalf of, a political party.
32. The Leader of a political group shall notify the Director of Corporate Governance, Property and Procurement in writing or by email, of the names of councillors who are to act as Opposition Spokespeople, the council functions to be overseen by such Spokespeople and whether they will operate through a Shadow Cabinet.
33. An Opposition Spokesperson will be entitled to be briefed by the relevant chief officer, or a nominated senior officer, on any matter within the functions overseen by the Spokesperson. Such a briefing must be limited to providing facts and professional advice. Officers must not be asked to undertake research or draw up policy options.

34. Opposition Spokespeople shall not be entitled to information or advice given to the controlling administration other than that which would be available under the Access to Information Procedure Rules.
35. Any information given to officers by Opposition Spokespeople and any advice given by officers to Opposition Spokespeople will be kept confidential.

Officers' Relationship with Ward Councillors

36. In their capacity as ward representatives, councillors will naturally be keen to bring about improvements and the resolution of problems which relate to their own areas. Officers have to do what they reasonably can to support the representative role of all councillors.
37. Councillors have to remember that officers have to look after the needs of the city as a whole, and in doing so, they have to apply the appropriate policies and procedures applied by the council.

Access to Documents

38. In addition to the rights that everybody has under access to information provisions, councillors also have a right to inspect documents held within the council, where this is reasonably necessary for the performance of their duties.
39. In cases of dispute the Monitoring Officer will determine the eligibility of councillors to access documents.
40. Councillors and officers inevitably come into possession of information which has been identified, or would be identified, as exempt or confidential information for the purposes of the access to information provisions. This information should not be disclosed to the media or to the general public by councillors or officers.

Non-Council Members

41. Under executive arrangements, the practice of co-opting non-Council members to sit on various bodies is commonplace. For example, co-opted members may sit on Overview and Scrutiny Boards and on Neighbourhood Boards or Neighbourhood Forums.
42. Non-Council members co-opted onto council bodies need to be made aware of the contents of this protocol and that its principles also apply to them.

Media and communications

43. The Council's Media Protocol outlines the principles and processes governing communications with the media outlets. The protocol applies to all councillors and officers and has been produced to provide guidance and clarify good practice relating to the effective management of our media relations at the Council. Press releases or other communications are not issued by the Council on behalf of political groups.

44. Every effort will be made to ensure councillors do not hear important information about the council from other sources first. All councillors quoted or named in a news article will be provided with a copy before it is published, so they are able to digest and consider the issue prior to any media enquiry.
45. The Social Media Policy provides clear advice and guidance on the acceptable use of social media by officers. Councillors should consult the Local Government Association's social media best practice guidelines and refer to the Councillors' Code of Conduct.

Correspondence between Councillors and Officers

46. Correspondence between councillors and officers should normally be kept on a confidential basis. This will underpin the arbitration role of officers.
47. However, if it is considered necessary by the officer, having received the advice of the Monitoring Officer, to disclose the contents of the communication to councillors of other political groups, then the councillor concerned will be informed in advance that this will happen and the reasons for doing so.

Councillors and Officers attending neighbourhood boards or forums as residents

48. This section provides guidance to councillors and officers who live in Derby and wish to attend neighbourhood board or forum meetings to express their views and raise concerns as residents.

Councillors attending neighbourhood boards or forums as residents

49. Councillors have many opportunities to raise issues and are well placed to ask questions and receive responses from other councillors and council officers. Councillors should pursue service issues and complaints through existing service department procedures and mechanisms and not use the neighbourhood board or forums. However, councillors do have the right to be included within the democratic process and to attend a neighbourhood board or forum meeting as a resident. When there is a need to raise an issue as a resident, a councillor should state:
 - their name
 - the ward they represent as a councillor
 - that they wish to speak in their capacity as a local resident.

Council officers attending neighbourhood boards or forums as residents

50. Council officers who live in Derby have the right to be included within the democratic process and to attend their local neighbourhood board or forum meeting as a resident. However, when a council officer has been invited to their local neighbourhood board or forum meeting in a professional capacity, they do

not have the right to speak as a resident at the meeting. When raising an issue at a neighbourhood board or forum meeting as a resident, a council officer should state:

- their name and job title;
- that they are employed by Derby City Council;
- that they do not wish to speak in their capacity as a council officer but as a local resident.

Protocol on Councillor Safety, Lone Working and Online Communications

Purpose

1. The purpose of this protocol is to provide councillors with unambiguous guidance in relation to the safe conduct of their duties and responsibilities as community leaders.

Principles

2. As a councillor, you are free to engage with residents in a manner of your choosing, provided that in doing so your activity is consistent with the obligations placed upon you under the Councillors' Code of Conduct and within other related codes and protocols.
3. The Council recognises that it holds a duty of care towards councillors and that it has a responsibility to provide appropriate guidance and resources to enable you to go about your duties safely.
4. Councillors recognise that as elected representatives they will be subject to a higher degree of scrutiny and standards of behaviour than ordinary members of the public. Moreover, councillors accept that political disagreement is a product of a healthy democracy. Nevertheless, all councillors can expect to be treated respectfully and you are within your rights to withdraw from any form of communication that is either vexatious, abusive, threatening or offensive.

Managing Risks

5. Personal safety is about assessing and managing risks, with the ultimate aim of being safe. Rather than avoiding risks, you should routinely assess risks to determine whether they are acceptable to you.
6. Councillors are encouraged to use the guidance contained within this protocol to undertake a personal risk assessment, examining the different activities you may undertake, with a view to identifying potential hazards.
7. The Councillor and Civic Support team maintain a Lone Working Risk Assessment for councillors (members.services@derby.gov.uk); you may also be able to access support via your political group or party. For specialist advice for adapting this document to your specific circumstances, contact the Corporate Health and Safety team (employee.healthandsafety@derby.gov.uk).

Community Engagement and Lone Working

8. Engaging with residents in their communities is a fundamental aspect of a councillor's role. However, certain activities can lead to a heightened level of risk to your personal safety.

9. Councillors should routinely undertake organic risk assessments by considering the signals you pick up from your immediate environment. It is important to consider the unique and personal set of physical signals that tell you that something doesn't feel right. Pay attention to your 'gut instinct' and if you feel uncomfortable or in danger remove yourself from the situation as soon as you can.
10. When undertaking activities in your wards, consider the following precautions before you leave the house:
 - Tell a family member or fellow councillor where you are going and what time you expect to return;
 - Charge your mobile phone and ensure emergency numbers are saved in your directory;
 - Consider using a personal alarm and check the batteries before you leave home (see Paragraphs 15 and 16).
11. Councillors are encouraged to work closely with their ward counterparts or political colleagues. Consider forming a buddy system when undertaking ward work.
12. Councillors are strongly discouraged from receiving visitors at home. Details of councillors' private addresses are not routinely published by the Council and have been designated as a sensitive interest for the purposes of registration of Pecuniary Interests under the requirements of the Localism Act 2011.
13. Contact details for all councillors are published on the Democracy Portal and will typically include your Derby City Council issued email address and mobile phone number.
14. Whilst only directly applicable to employees, councillors are encouraged to follow the principles contained within the Council's [Protecting Lone Workers Policy](#) and the [Abuse, Aggression and Violence Policy](#).
15. Derby Carelink provides 24 hour support for lone workers. After the expiry of a pre-set time period, Carelink will automatically call a user's phone and if they fail to answer initiate an emergency protocol agreed with you in advance. The system also has an immediate emergency call facility allowing a councillor to summon help discretely via a personal alarm.
16. To sign-up for Carelink or request a personal alarm, please contact carelink@derby.gov.uk, copying-in members.services@derby.gov.uk.

Canvassing

17. Refer to guidance issued by your political groups or parties when canvassing. Take care to follow the general principles below:

- Do not canvass alone.
- Ensure you exchange telephone numbers before you begin canvassing and regularly check to ensure everyone is safe.
- Ensure you have a plan if a colleague is not visible or isn't responding to a phone-call.
- Keep personal belongings out of sight and ensure your hands are as free as possible.
- Canvass in well-populated areas and if doing so at night wear high visibility clothing.
- Walk facing oncoming traffic.
- Take care when posting leaflets through letterboxes or canvassing properties where there are signs there may be a dog present.
- When holding doorstep conversations, do not stand too close to the door and pay attention to non-verbal behaviour.
- Do not persist with a conversation where a resident appears unwilling to engage. If a resident is abusive or aggressive, withdraw and ensure that the household is avoided by your colleagues (see paragraph 18).

18. Councillors are encouraged to share information and intelligence with their ward colleagues irrespective of political affiliation – if you do not feel comfortable liaising directly with a political opponent, notify the Localities team.

Ward Surgeries

19. The Councillor and Civic Support team will arrange and publicise surgeries on your behalf. However, it is your responsibility to ensure surgery venues are suitable and that appropriate measures are in place to protect your personal safety.
20. Choose venues carefully and avoid holding surgeries alone or in otherwise empty buildings. Suitable venues may include libraries, supermarkets or shopping centres where there is a high level of footfall.
21. Ensure that your surgery venue has good access and more than one exit. Check for a strong and reliable mobile phone signal.
22. Consider hosting surgeries jointly with ward colleagues or taking a companion with you. Develop coded language with your companion to share information about your personal safety without alerting the resident you may be speaking to.
23. Carefully consider the seating arrangements for your chosen venue (seating set-out at either a 45-degree or 90-degree angle is less confrontational). Ensure you are seated closest to the exit and position a table or desk to provide a natural security barrier. Ensure the immediate area is free from objects that could be used against you and that your exit route is clear.
24. Before using a venue for the first time, ask the Corporate Health and Safety

Team to support you with adapting the Councillor Lone Working Risk Assessment (members.services@derby.gov.uk / employee.healthandsafety@derby.gov.uk).

Home Visits

25. Home visits to residents should only be conducted in exceptional circumstances. Before proceeding, consider whether there are alternative options available. These could include:
 - A telephone conversation or email exchange
 - Agreeing to meet at the Council House or at public place in your ward
 - Attending your next scheduled Ward Surgery
26. Before agreeing to a home visit, ensure you check who else will be present at the property during your meeting or if there will be a dog on-site. Consider taking a companion with you and ensure that someone knows exactly where you are and what time you plan to finish. If your plans change, ensure you notify someone.
27. Assess the property before knocking on the door. Pay attention to visible clues about the layout of the property or the presence of a dog.
28. Avoid taking too many personal belongings into someone's property and ensure your hands remain free, in case you need to make a quick exit.
29. After knocking on the door, take a step back and position yourself so that you can see beyond the resident when they answer. Undertake a doorstep conversation before entering the property and use your senses to assess potential risks – these could include:
 - Indications that the resident is intoxicated or has been using drugs;
 - Facial expressions and body language that may indicate threatening or violent behaviour;
 - Hearing sounds that suggest others are in the property that you weren't expecting.
30. If your gut instinct tells you something is wrong, make an excuse for not entering the property and seek to re-arrange the meeting until you have sought advice. If you decide to enter, pay attention to the front door handle and locking mechanism. If a resident chooses to lock the door out of habit, politely ask for it to be left open.
31. Manage the meeting carefully and consider the following precautions:
 - Avoid meeting in the kitchen or in areas of the home where there are objects that could be used against you.
 - Ask for dogs or other animals to be placed in a separate room.
 - Sit in a seat nearest to the door and in a way that means you could get

to your feet quickly if necessary.

- If you have arranged a safety call from a companion, take care to use coded language to communicate the situation without causing offence.
- If during the discussion, behaviour begins to deteriorate or you feel uncomfortable, try to smooth things over and make an excuse to leave.
- Find a sensible reason to defer a decision or in extremis agree to anything which enables you to exit the situation safely.

32. Ensure you report any incidents in line with paragraphs 48 to 50 of this protocol.

Threatening behaviour, stalking and harassment

33. There is not a definitive means of determining when somebody's actions become threatening and not every act of violence is preceded by a clear deterioration in behaviour. Often it is a combination of factors that may cause you to feel unsafe – these can include:

- Intimidating non-verbal behaviour – including exaggerated hand and arm movements
- Prolonged eye contact
- Standing too close to you
- Saying things that are illogical or sit outside of your own frame of reference.
- Repetition of statements or sentences
- Actual threat of harm to either your person, family or property

34. Harassment is a broad term which describes behaviour or patterns of behaviour which cause alarm or distress to the recipient. These can include repeated attempts to impose unwanted communications; making false and malicious assertions or allegations or focusing unwarranted attention on others who are connected with an individual (known as stalking by-proxy).

35. Stalking can include following a person; watching or spying on someone or forcing contact via any means, including social media. Whilst taken in isolation, this type of behaviour may appear innocent, when carried out repeatedly it can cause significant alarm, harassment or distress to the victim.

36. If you feel you may be the subject of either harassment or stalking, consider accessing the support available at paragraphs 47 to 55 of this protocol.

Online Safety and Communications

37. Social media is a powerful tool for you to engage with your electorate. However, the use of social media also carries considerable risks, including in relation to intimidation, abuse and personal safety, as well as potential legal implications and reputational damage to yourself and the Council when used improperly.

38. Councillors should be mindful of general risks associated with online activity such as phishing scams and identity theft, as well as a heightened risk of cyber-bullying, cyber stalking and impersonation created by your public role.
39. Do not underestimate the risk to your personal safety arising from online abuse. Threats of violence or the incitement of others is illegal and should be reported to both the Police and the hosting platform (e.g. Facebook, Twitter etc.).
40. Apply the same judgement to online engagement as you would to a physical interaction. If you choose to meet with someone who has been difficult online or they attend a meeting or surgery, apply the personal safety guidance detailed elsewhere in this protocol.
41. The Local Government Association (LGA) has undertaken an extensive body of work on Civility in Public Life and has published a range of materials as part of its Digital Citizenship programme, providing guidance and tools to support councillors with your [online communications](#).
42. The LGA recommends the following rules of engagement for councillors when communicating online and for handling online abuse:
- **Set clear expectations** – make publicly available rules of engagement on your social media profiles and apply them consistently.
 - **Lead by example** – do not post comments that could be considered abusive, and avoid posting false or unverified information.
 - **Consider content** – give careful thought to how engagement with controversial issues will be managed.
 - **Defuse conflict** – wait before responding to comments; carefully consider the framing of arguments and the language used.
 - **Learn when to step back** – there is no need to respond to threatening or abusive behaviour.
 - **Protect privacy** – carefully manage passwords and privacy settings; do not post information that could give away your whereabouts or discloses personal information not available elsewhere. Consider using a separate account for official business in your role as a councillor.
 - **Get and give support** – offer to support fellow councillors and reach out to council officers when needed.
 - **Record abuse** – screenshot comments and keep a record of abusive or threatening communications.
 - **Report serious issues** – if you have concerns about your safety, report this immediately to the Police and to the Council.
43. Civil and criminal law contains several offences that can relate to the use of social media. As councillors, you may either be victims of these offences or if social media is used improperly then be subject to legal penalties yourself. Relevant offences to be aware of include:
- **Defamation** – if an individual publishes an untrue statement about a

person which is damaging to their reputation, they could be ordered to pay large sums in damages.

- **Harassment** – it is an offence to pursue a campaign against a person that is likely to cause them alarm or distress.
- **Malicious and obscene communications** – it is an offence to send communication that is indecent, grossly offensive or threatening, for the purpose of causing stress and anxiety to the recipient.
- **Incitement** – it is an offence to incite any criminal act.
- **Discrimination** – it is an offence to discriminate against anyone based on protected characteristics defined in the Equality Act 2010.
- **Data protection** – publishing personal data without the individual's prior consent may incur substantial fines from the Information Commissioner (ICO).
- **Copyright** – publishing images, music and documents without the permission of the creator is likely to be a breach of copyright.

44. The Councillors' Code of Conduct applies to all forms of communication including electronic and social media communications. Misuse of social media risks councillors being found in breach of several obligations under the Code, including bringing your office or the authority into disrepute.

45. When using social media, it can be unclear if you are acting in an official or private capacity. If a councillor identifies themselves as an elected representative in their online profile, anything you post may be presumed to be in an official capacity and therefore subject to the Code of Conduct. The manner in which you conduct yourself in any public setting will reflect on the reputation of the Council.

46. When using social media, councillors should take particular care to avoid allegations of bias or predetermination; you should not suggest that you have made up your mind about a matter that you may subsequently be involved in determining. If predetermination can be demonstrated, decisions of the Council may be subject to Judicial Review and result in both abortive costs and severe reputational damage for the Council.

Reporting of incidents and accessing support

47. If you are a victim of harassment, abuse, intimidation or violence then it is vital that all incidents are reported irrespective of their severity. Reporting and monitoring allows the Council and/or the Police to take further action if necessary.

48. If you believe that you are in immediate danger, contact the emergency services by calling 999.

49. If following an incident you feel that a criminal offence may have been committed, contact Derbyshire Constabulary by calling 101 and reporting the matter to your Local Policing Unit (Derby North / Derby West / Derby East). Ensure that after having reported the matter to the Police, the incident is also

reported to the Council in accordance with paragraph 50.

50. Low-level incidents should be reported using the [Abuse, Violence and Aggression Incident Report Form](#). All incidents will be centrally recorded by the Corporate Health and Safety Team, who will liaise with Councillor and Civic Support about any additional actions or mitigations that may be required.
51. Any safeguarding concerns encountered in the course of your duties should be reported as soon as possible via the Council's established procedures. View the Council's website for information on [safeguarding adults](#) and [safeguarding children](#), before completing the online forms:
- [Derby Safeguarding Adults Board referral](#)
 - [Report concerns about a child](#)
52. The Council holds a statutory responsibility to prevent people from being drawn into terrorism (known as the Prevent duty). Should you have concerns about extremism or radicalisation, these should be reported to the Head of Community Safety and Localities or the Service Manager – Community Safety for escalation to the Police.
53. The Council will share relevant information with councillors about known and potential threats where appropriate, as well as provide regular updates in reaction to serious incidents. The Counter-Terrorism Local Profile is shared annually with the relevant Cabinet Member and summary guidance issued to councillors.
54. If you are subject to persistent contact from a particular individual that may by virtue of its volume constitute harassment, speak to the Head of Democracy about establishing a written Communications Plan. Some individuals may be known to the Council already and where appropriate they can be allocated a named single point of contact or directed to the appropriate support service.
55. Being abused or intimidated can have a severe impact on your mental health. If you are feeling anxious, worried or it is affecting your daily routine then consider the following options:
- Speak to a councillor nominated to provide pastoral care within your group to establish what additional support may be required.
 - Speak to a member of the Democratic Services team about additional support the Council may be able to offer you, including the creation of a wellbeing support plan.
 - Access DCC wellbeing support and information – councillors are encouraged to make contact with the Chaplaincy Service and Council House Mental Health First Aiders.
 - Speak directly to your GP.

Training and access to external resources

56. Personal safety training and additional guidance will be offered to councillors as part of the Councillor Induction Programme and the annual programme of Councillor Training.
57. Free personal safety training for councillors is regularly offered by organisations such as the Local Government Association and will be promoted via regular Keeping in Touch with Councillors e-bulletins.
58. This protocol has been produced with reference to a wide range of publicly available resources relating to personal and online safety. Further information can be accessed via the links below.

Derby City Council

[Protecting Lone Workers Policy](#)

[Abuse, Aggression and Violence Policy](#)

[Employee Social Media Policy](#)

Local Government Association (LGA)

[Handling Abuse and Intimidation](#)

[Civility in Public Life: Abuse and Intimidation Support Offer](#)

[Digital Citizenship: support and resources for councillors](#)

Local Government Information Unit (LGIU)

[Personal Safety for Councillors Booklet](#)

Suzy Lamplugh Trust

[Personal Safety Advice](#)

Protocol on the use of facilities, services and equipment by councillors

Introduction

1. The Councillors' Code of Conduct states that a councillor must, when using, or authorising the use by others of, the resources of the authority:
 - act in accordance with the authority's requirements; and
 - ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or the office to which the councillor has been elected or appointed.
2. This protocol sets out the Council's requirements under the Code of Conduct and any breach of the protocol will be regarded as a breach of the Code of Conduct. The protocol covers the use of facilities, services and equipment provided to councillors.

Meaning of 'political purposes'

3. There is a distinction between 'political groups' and 'political parties'. A 'political group' is legally recognised in the Local Government and Housing Act 1989 and associated regulations. A political group is a collection of councillors who have declared their membership of the group to the Council's Monitoring Officer. The Council has a duty to give effect to the wishes of the groups in, for example, allocating seats on committees. A political group meets regularly to consider forthcoming Council business and decide the group's position on policy matters. At least part of the work of political groups can therefore be regarded as facilitating, or being conducive to, the discharge of the functions of the authority.
4. Political parties are separate from, although allied to, political groups. Their main purpose is to campaign and fight local and national elections and their membership is much wider than local councillors. Councillors are normally members of a political party. Political parties can be organised at ward, constituency or district level. They are not directly concerned with facilitating, or being conducive to, the discharge of the functions of the authority.
5. For the purposes of the Code of Conduct, therefore, the use of the Council's resources for political purposes has to be restricted to services associated with the operation of the Council's political groups, not political parties.

Use of facilities and equipment

6. The Council provides councillors with certain facilities and equipment either in their homes or at the council offices. This section covers the use of these facilities and equipment, including stationery and consumables, other than Information Technology equipment which is covered by paragraphs 18 to 28.
7. Equipment will remain the property of the Council. It is lent to the councillor for the duration of their term of office. At the end of that period, the equipment must be returned to the Council in full working condition. If equipment has been lost or damaged whilst on loan, a charge may be made for its replacement or repair.
8. Councillors must use any Council facilities and equipment provided to them only in connection with their role as a councillor and for no other purpose. For example, they must not use any of the council's paper, photocopiers, printers or internal or external mail facilities, for any personal or party-political purpose, or any purpose that is not related to Council business.
9. Councillors must not use rooms in Council offices for any personal or party political purpose, or any purpose that is not related to Council business. Use of facilities and equipment on behalf of any community or voluntary groups with which councillors may be connected is not permitted, unless support for a particular group or organisation has been mandated by a resolution of Council or the Chief Executive.
10. Should the Chief Executive or the Strategic Director of Corporate Resources have concern about the use of equipment, they can request the Monitoring Officer to take the matter to the Standards Committee to make the decision whether to demand the return of equipment.
11. Incidental, small-scale use of facilities and equipment outside authorised purposes, may be agreed with the Head of Democracy, on payment of an appropriate charge, provided that this does not interfere with official Council business. All uses under this paragraph shall be recorded in a register which shall be open to inspection by any member of the public.

Use of Democracy support services

12. The Democracy service provides support to councillors via the Councillor and Civic Support and Democratic Services teams. This support is provided solely in accordance with councillors' community leadership roles and any positions within the authority to which they are constitutionally appointed.
13. The support available to councillors from the Democracy section includes:
 - Casework support
 - Constitutional advice
 - Diary management
 - Preparation of agendas and meeting papers
 - Publication of surgery notices and booking of surgery venues

- Research support relating to constitutionally appointed roles
14. Written material will contain the Council's official logo. Councillors must not ask, or put any obligation on employees of the council to assist with, any personal or party-political matter or any matter that is not related to council business. Use of support services on behalf of community or voluntary groups with which councillors may be connected is not permitted.
 15. Councillors may include reference to their political and ward representation on the Derby City Council letterhead. However, the use of party logos, slogans or other identifying symbols is not permitted.
 16. Councillors may request the Councillor and Civic Support team to arrange for the printing of mail merges, providing the content of the letter is related directly to Council business.
 17. The following internal guidelines apply in relation to the printing of mail merges and surgery notices by or on behalf of councillors:
 - All requests for printing should be made with the Councillor and Civic Support team and councillors must not send requests to the Document Management Centre (DMC) directly;
 - No more than 50 letters may be posted and no more than 1000 letters/notices may be printed for hand delivery at any one time;
 - All requests for printing for hand delivery in excess of 100 letters/notices will be reviewed and recorded by the Councillor and Civic Support Manager;
 - All requests for postage of letters/notices in excess of 10 addresses will be reviewed and recorded by the Councillor and Civic Support Manager.
 - An annual limit of £150 per councillor will apply for printing and postage costs relating to mail merges and surgery notices (the allowance may be pooled within wards and individual letters will not count towards this limit).
 - Requests for colour printing or use of first-class mail must be made to the Councillor and Civic Support Manager, and will be assessed on a case by case basis.

Use of Information and Communications Technology (ICT) facilities and equipment

18. The Council provides the following ICT facilities and equipment to councillors:
 - A secure log-in to the council network and email address
 - A mobile phone - the council will pay for a monthly contract for councillors to make and receive calls and use data.
 - Either a tablet or laptop computer
 - Access to the political group rooms and offices at the Council House, which include networked terminals and printing facilities.

19. The Council does not provide new broadband or landline telephone connections, nor will the Council take on the funding for existing connections.
20. Subject to paragraphs 23 and 28, councillors must use any council IT facilities and equipment provided to them only in connection with their role as a councillor and for no other purpose.
21. The councillor is responsible for meeting the cost of any damage to the equipment which goes beyond ordinary wear and tear, other than damage arising from theft, accidental damage, fire damage, failure of electricity supply and failure of telecommunications. The councillor must report immediately to the Council any damage to or malfunction of the equipment.
22. IT equipment remains the property of the Council. It is lent to the councillor for the duration of their term of office. At the end of that period, the equipment must be returned to the Council in full working condition or a charge may be incurred under the requirements of paragraph 21.
23. Reasonable incidental personal use is permitted, in accordance with the Information Security and IT Acceptable Use Policy.

Equipment must only be used by the councillor to which it is allocated and only for official council business or activities which facilitate the delivery of the Council's functions. Personal use is permitted provided it does not violate these conditions and does not hamper or conflict with official business. Any private use and data held on the system is at the councillor's discretion.

The Council accepts no liability for any consequences (including financial or other loss) which may arise through reasonable incidental personal use of the equipment. The security of any personal data is the councillor's responsibility.

24. In accordance with legislative requirements, councillors must comply with all relevant Derby City Council policies in relation to information governance and data protection when using equipment that has been provided to them.

This includes but it is not limited to the Data Protection Policy and the Information Security and IT Acceptable Use Policy.

25. The councillor must stop using the equipment immediately if they:
 - cease to be a councillor, or
 - receive written notice from the Council to that effect.

If the council gives the councillor notice that it requires the return of the equipment, the councillor must return it within five working days.

26. The Council will provide and maintain a valid insurance policy at all times which will cover the equipment against theft, accidental damage, fire damage, failure

of electricity supply and failure of telecommunications.

27. The councillor will not do, cause or permit any act or omission that could invalidate the insurance policy covering the equipment.
28. The councillor must comply with all policies, guidelines and codes of practice issued by the Council on the use of the equipment or the network to which it is connected.

Use of facilities, services and equipment by councillors during election periods

29. Strict rules apply to councillors' communications and publicity during the pre-election 'Purdah' period, which runs from the publication of the notice of election to the close of polls.
30. During Purdah, councillors should not use Council resources in any way that could be interpreted as seeking to influence the outcome of the election. In practice, this will result in restrictions on the use of council email, communications equipment, buildings and meeting rooms, as well as access to Democracy and other councillor support services, as determined by the Monitoring Officer.

Complaints and allegations of breaches to this protocol

31. Allegations of any failure to comply with this protocol should be made in writing to the Monitoring Officer, in accordance with the Councillor Complaints Procedure.
32. In circumstances where the Monitoring Officer has been made aware of conduct which may constitute a breach without a complaint being received, the matter may be reported to the Standards Committee to determine whether further investigation is warranted.

Planning Protocol

Background and Scope

This Planning Protocol should be read in conjunction with the terms of reference provided for the Planning Control Committee.

The Planning Protocol takes into account the ethical framework introduced by the Localism Act 2011, the National Planning Policy Framework and relevant planning practice guidance, and the Councillors' Code of Conduct.

The aim of this Protocol is to ensure that:

- (a) Planning decisions are made openly, impartially with sound judgement, and for justifiable planning reasons; and
- (b) Throughout the planning process there are no grounds for suggesting that a decision has been biased, not impartial or not well founded in any way.

The Planning Protocol applies to members of the Planning Control Committee, ward councillors and officers.

Councillors should also have due regard for any advice issued by the Chief Planning Officer from time to time and the Local Government Association's 'Probity in Planning' guidance.⁷³

Introduction

The Planning Control Committee operates in a quasi-judicial manner. There is recourse through the courts and the Planning Inspectorate if a decision on a regulatory planning matter is not correctly made - with possible financial penalties for the Council. This places an important responsibility on those who serve on the Planning Control Committee.

The role of a Member on the Planning Control Committee involves balancing representing the needs and interests of the council area as a whole, with the need to maintain the ethic of impartial decision making on what can be highly controversial proposals. This Protocol has therefore been established to provide guidance for Members and officers in dealing with planning matters to avoid grounds for allegations of malpractice.

All Members serving on the Planning Control Committee are required to abide by this Protocol.

General Roles and Conduct

The basis of the planning system is the consideration of private proposals against wider public interests, with often strongly opposing views. Whilst Members should take account of those views, they should not favour any person, company, group or

⁷³ [LGA - Probity in planning: Advice for councillors and officers making planning decisions, December 2019](#)

locality; nor put themselves in a position where they appear to do so. Decisions should clearly be based upon the development plan and material planning considerations.

The role of Members at the Planning Control Committee is not to represent the views of their constituents, but to consider planning applications in the interests of the whole Council area. When voting on applications, Members may therefore decide to vote against the views expressed by their constituents.

Members who do not feel that they can act in this way should consider whether they are best suited to serving on the Planning Control Committee.

Members whose business or other interests bring them into frequent contact with the planning system should consider whether it is appropriate or practical to accept appointment to the Planning Control Committee: nor should other Members seek to appoint such a Member to the Planning Control Committee.

The role of officers at Planning Control Committee is to advise the Members on professional matters, and to assist in the smooth running of the meeting.

If Members have questions about a development proposal, they are encouraged to contact the case officer in advance. The officer will then provide advice and answer any questions about the report and the proposal, which will result in more efficient use of the Planning Control Committee's time and more transparent decision making.

Training

No Member shall attend any meeting of the Planning Control Committee as a committee Member unless they have undergone such mandatory training in planning procedures as the Council requires.⁷⁴

Members should endeavour to attend any other specialised training or informal briefing sessions provided, to improve and keep up-to-date knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above.

General Principles for Dealing with Planning Matters

A Member should consider the interests of local residents and businesses as a whole and should not favour any individuals or groups. They should also act in the interests of the whole Council area.

A Member shall not accept a nomination to serve on the Planning Control Committee unless they agree to abide by the terms of the Planning Protocol.

Members (and officers) must not act as paid agents or consultants on planning matters within the jurisdiction of the Council as local planning authority.

⁷⁴ Training for Planning Control Committee members has been identified as compulsory as part of the Councillor Training and Development programme approved annually by the Full Council.

Planning applications will be determined in a transparent, fair and open manner and Members should have regard only to the development plan and material planning considerations and should disregard all other factors.

Members participating at meetings should ensure that they are present for the whole presentation by officers and subsequent debate on a particular matter. This is to ensure that they are able to hear all the relevant evidence and debate in relation to a proposal. In the event that a Member misses part of an item being discussed then they must not vote.

Members should retain an open mind about planning matters until they are in possession of all the relevant information to be presented.

Members should pay full regard to officers' professional recommendations, relevant national/regional planning statements and guidance, and relevant Development Plan policies.

Members are recommended to be cautious of social contact with applicants and agents.

Members should not disclose to a third party information submitted to them or a committee on a confidential basis.

The Local Government Association's Probity in Planning guidance states that the role of the Member is to:

- Act fairly and openly;
- Approach each application with an open mind;
- Carefully weigh up all relevant issues;
- Determine each application on its own merits;
- Avoid contacts with interested parties which might be taken to indicate that they were unduly influenced by one party or another; and,
- Ensure that there are clear and substantial reasons for their decisions and that these reasons are clearly stated.

The role of Officers is to:

- provide impartial and professional advice;
- make sure all the information necessary for the decision to be made is given;
- set applications and enforcement issues against broader Development Plan, Local Development Framework and other material considerations;
- give a clear recommendation;
- give reasons for the recommendation; and

- implement the decisions of the Committee.

Determination of Planning Applications

Members determining applications will take account of all the relevant information presented before reaching a decision and should not commit themselves to a final opinion before having done so.

In considering the merits of planning applications Members should have regard only to relevant planning matters and should disregard all other factors and considerations.

Members should pay full regard to the professional officer recommendation, relevant national/regional planning guidance and relevant Development Plan policies.

Members can always ask for clarification from officers. However, if there are issues which require factual clarification, these should preferably be directed to the case officer before the committee meeting, not at the meeting itself.

Members will then debate the application, including giving an indication of how they intend to vote.

After Members have debated the application, a vote will be taken.

Whilst officers will provide professional advice and a recommendation on every application and matter considered, it is the responsibility of Members, acting in the interests of the whole Council, to decide what weight to attach to the advice given and to the considerations of each individual application. In this way, Members may decide to apply different weight to certain issues and may reach a decision contrary to officer advice.

If, in moving contrary to the advice and/or recommendation in an officer's report, Members require further advice about the details of the motion, the meeting can be adjourned for a short time to allow Members and officers to draft the motion. This may include reasons for the decision that are relevant to the planning considerations on the application, and which are capable of being supported and substantiated should an appeal be lodged.

Where Members propose to determine a planning matter contrary to officers' advice, full and proper reasons based on material planning considerations must be given at decision time.

Where Members refuse an application contrary to the officer recommendation, the Committee should also nominate a lead Member to represent the Council at any subsequent appeal.

Members may move that any vote should be recorded at any meeting of the Planning Control Committee. This means that a formal record is taken of how each individual Member voted (For, Against, or Abstain). Recorded votes should be undertaken in accordance with the procedures set out in the Council Procedure Rules, detailed at Part 3 of the Constitution.

Officer Reports to Committee

Reports should be accurate and cover, among other things, the relevant planning matters of objections and the relevant planning matters raised by people who have been consulted in respect of an application.

Relevant points will include a clear exposition of the site or related history, the relevant Development Plan policies and all other relevant material planning considerations.

Reports should include a clear written recommendation of action.

Reports should list the topics that will be addressed by conditions and if possible also include draft Heads of Terms (where applicable) to a legal agreement, if the recommendation is to grant planning permission.

Reports should contain a technical appraisal which clearly justifies the recommendation made by the officer.

If the recommendation in the report is contrary to the provisions of the Local Plan, the material considerations which justify this must be clearly stated.

Where an application is recommended for refusal the reasons will be set out in full in the officer's report.

Disclosable Pecuniary and Personal Interests

The Councillors' Code of Conduct sets out requirements for declaring disclosable pecuniary and non-pecuniary interests and the consequences of having such interests. These must be followed scrupulously, and Members should review their situation regularly.

Members should avoid membership of the Planning Control Committee if it entails, or would entail, frequent declarations of disclosable pecuniary interests.

A Member with a disclosable pecuniary interest in respect of a particular planning matter must declare it and take no part in the discussion or the determination of the proposal. The Member may in their personal capacity and if registered to speak make representations prior to any debate on the matter but thereafter should leave the room while the item is considered and determined. The responsibility for this rests with each Member and they may wish to consult with the Monitoring Officer or legal advisor to the committee at the earliest opportunity if in any doubt.

Ward Members who are also members of the Planning Control Committee may participate in the committee debate on an application in their ward and subject to any disclosable pecuniary interest will normally be allowed to vote on the application.

A Member who has a disclosable interest in a planning matter is still able to represent the interests of their ward constituents at committee meetings in respect of that

matter, subject to the Council's rules on public participation at committees. Alternatively, the Member could advise constituents to address their representations to another ward Member or a Member of an adjacent ward who is not so affected.

Predetermination and Predisposition

Members of the Planning Control Committee need to take account of the general public's expectation that a planning application will be processed and determined in a transparently open and fair manner, in which members taking the decision will take account of all the evidence presented before arriving at a decision, not take into account irrelevant evidence or representations and that to commit themselves one way or the other before hearing all the arguments and evidence makes them vulnerable to an accusation of partiality. A Member may voice their concerns publicly before a meeting but they should make it clear that they will not form a final opinion until they have considered all the information.

Members must not prejudice their ability to participate in planning decisions at the Planning Control Committee by making up their mind, or clearly appearing to have made up their mind (particularly in relation to an external interest or lobby group), on how they will vote on any planning matter prior to formal consideration of the matter at the Planning Control Committee and hearing the officer's presentation and evidence and arguments on both sides.

Predetermining a matter in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

If a Member has made up their mind prior to the meeting, or has made public comments which indicate that they might have done, and is not able to reconsider their previously held view, then they will not be able to participate on the matter.

Members who are members of the Planning Control Committee and who in that capacity attend any ancillary meeting or committee or sub-committee need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application or on planning policies. Section 25 of the Localism Act 2011 provides that a Member should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular meeting, provided they remain open to listening to all the arguments and changing their mind in the light of all the information presented at a relevant meeting. A Member in this position will always be judged against an objective test of whether the reasonable onlooker with knowledge of the relevant facts, would consider that the Member was biased.

Circumstances may also arise where a Member has had significant personal involvement with an applicant, agent or interested party (whether or not in connection with the particular matter before the Planning Control Committee), which could lead an observer who knows the relevant facts to reasonably believe the Member's interest is so significant that it is likely to prejudice their judgement of the public interest. In

these circumstances, the Member should declare an interest, observe the Council's rules on public participation at committees, and withdraw from the meeting.

Members must be aware that they are likely to have predetermined a matter where the Council is the landowner, developer or applicant and they have acted as, or could be perceived as being, a chief advocate for the proposal.

For advice on predetermination and predisposition, Members should seek the advice of the Monitoring Officer.

Lobbying of Councillors

Lobbying is a normal part of the planning process. It is recognised that those affected by a proposal will often seek to influence the decision by approaching their local Member or to members of the Planning Control Committee. However, such lobbying can lead to the impartiality and integrity of a member being called into question. The information provided by lobbyists may represent a selective and incomplete picture of the relevant considerations in respect of a planning matter.

If a Member feels that the views of constituents should be reported to the meeting of the Committee they should refer them to another councillor who is not a Member of the Committee to make them.

Members should pass any information received relating to an application to the relevant planning officer so that it can be considered and checked and, if relevant, included in the officer's report to the Committee.

Members of the Planning Control Committee are free to listen to any point of view about a planning proposal. Even though they may agree with a particular view, members of the Planning Control Committee should take care not to express an opinion which may be taken by the public as indicating that they or the authority had already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such situations, Members should restrict themselves to giving procedural advice, including suggesting to those who are lobbying, that they should speak or write to the relevant officer in order that their opinions can be included in the officer's report to the committee. If they do express an opinion, it should be made clear that the Member will only be in a position to take a final decision after having heard all the relevant evidence and arguments at committee.

Members can raise issues with officers that have been raised by their constituents. It is always good practice that they make it clear that they can only make a final decision after hearing all the relevant arguments and taking into account all relevant material and planning considerations at Planning Control Committee.

If a member of the Planning Control Committee responds to lobbying by deciding to go public in support of a particular outcome; or actively campaigns for it, they should make clear in their public comments and/or at committee when the decision is under consideration that the views expressed are/were provisional and they will come to a final view once they have weighed all the evidence and listened to all the arguments presented at the committee meeting. If a Member is of the view that they are unable

to make an impartial decision they should not participate in the decision. If they consider the public comments they have made mean the public perception is that they will be unable to make a decision without bias, they may in the interests of maintaining public confidence decide not to participate in a decision.

If a Member requires advice about being lobbied, they should seek it from the Monitoring Officer as soon as possible and preferably well before any meeting takes place at which the issue might arise.

Political Influence

Given that the point at which a decision on a planning application is made cannot occur before a Planning Control Committee meeting, when all available information is to hand and has been duly considered, any political group meeting prior to the committee meeting should not be used to decide how Members should vote and political whips must not be used.

Members of the Planning Control Committee should avoid organising support for or against a planning application and avoid lobbying other Members. Such actions can easily be misunderstood by parties to the application and by the general public. Where a member of the Planning Control Committee wishes to act as a facilitator to a local group regarding a particular application, they should indicate that they will absent themselves from the vote on that particular application when it is being considered.

Pre-application Discussions

Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties. Such discussions should not, however, become or be seen to become, part of a lobbying process. Any such discussions should take place within clear guidelines.

Where Members of the Planning Committee are involved in pre-application discussions, at least one officer should attend any meetings and a follow-up letter is advisable, particularly when documentary material has been left with the Council. A written note should be made of all meetings.

All officers taking part in such discussions should make clear whether or not they are the decision-maker.

Any advice that is given should be (and be seen to be) impartial by any party involved. It should always be made clear at the outset that the discussions will not bind a Council to making a particular decision and that any views expressed are personal and provisional. Advice and observations should be based on the adopted plan and material considerations.

The following terms of engagement shall apply:

- (a) Presentations by applicants should be limited to the development proposal and a question and answer session on factual matters. The understanding must be that the engagement is in order to improve understanding. Where

appropriate such meetings may take place on site and incorporate a site visit. Officers of appropriate seniority should attend presentations.

- (b) Members should maintain an impartial listening and questioning role and avoid expressing an opinion or giving advice beyond outlining the adopted local policies. Questions to clarify aspects of a proposal, or the expressions of policy concerns are legitimate as long as they do not develop into negotiations. It should be made clear at the outset of the meeting that discussions are not binding, and that views expressed are not part of the determination process. It should be made clear in introductory remarks that any statements should be categorised as 'without prejudice'.
- (c) If the applicant requests the views of the authority, these will be communicated subsequently and in writing by officers. In such communication, officers will make it clear that any views expressed prior to formal determination of an application are preliminary.
- (d) A written note of the proceedings should be kept - to include a record of officer attendance and follow up.
- (e) Follow up to the meeting should occur with a letter emphasising the informative nature of the meeting.

Site Visits

When deciding whether a formal site visit is appropriate prior to the meeting at which the planning application is to be considered, all circumstances should be considered including whether:

- (a) Matters of judgement are involved on the context of the site such as the effect on landscape, impact on character, residential amenity, or highway considerations rather than purely on principle;
- (b) It is a finely balanced case; or
- (c) It is a contentious application where there are strong local views.

Where visits are arranged, they must be undertaken in accordance with the Protocol on Site Visits. Members should not enter into any conversation with other people on site and must avoid any comment which could be construed as biased.

Members should not carry out unaccompanied site inspections (other than for the purpose of seeing the site), contact landowners themselves or arrange to go onto sites without a Planning Officer present. Members need to exercise caution with regard to being lobbied on such site inspections.

The primary aim of a site visit is to enable Members to judge for themselves the likely impacts of the proposed development and appreciate the issues involved. All members of the Planning Control Committee are encouraged to attend the site visits.

Site visits should only be attended by Members and officers. No representations will be permitted during the site visit from members of the public, applicants or agents. The site visit should be conducted as an extension of the committee meeting.

Where a Member proposes deferral of a planning application at a Planning Control Committee meeting in order that a site inspection may be carried out, the planning reason for conducting such an inspection should be clearly stated.

Any of the Members responsible for calling an application into a Planning Control Committee may wish to attend the site visit to explain why they called the application in.

Call-Ins

Planning applications may be 'called-in' to the Planning Control Committee for determination by any Member of the Council.

Call-in requests must be submitted in writing within 28 days from the beginning of the consultation period, or within 7 days from the beginning of any subsequent re-consultation period.

Call-ins must be based on valid and relevant planning grounds. Any issue relating to the propriety of the specified planning grounds will be determined by the Monitoring Officer.

By making a call-in request, a Member is indicating that they consider the issues require debate by the Planning Control Committee.

A Member who has called-in a planning application is expected to attend the Planning Control Committee meeting at which the application they referred is to be discussed, to address the Planning Control Committee and explain their views on the application and expand on their call-in reasons.

If a Member who has called-in an application is not present at the start of the Planning Control Committee meeting at which the application is to be considered, then the item will be withdrawn from the agenda and determined by an officer in accordance with the Council's scheme of delegation.

Conduct of Ward Members (non-members of the Planning Control Committee)

Ward Members have an important role to play as representatives of their communities and to bring local information to the decision-making process. Ward Members may therefore become involved in discussions with officers about individual applications. However, they should remember that it is very easy to create the impression that they are using their position to influence the progress of the application. Any discussions with officers should be seen to be open and above board. Officers should make a note on the file of any such discussions.

Ward Members who are not members of the Planning Control Committee may make representations on planning applications in their Ward, may attend meetings of the

Planning Control Committee and, with the Chair's agreement, may address the committee on such applications in accordance with the rules on public speaking.

Any representations or address should relate to the planning merits of a planning application.

When making representations on behalf of their constituents, Ward Members should make it clear that it is their constituents' views and not their own that are being expressed. Furthermore, any representations on behalf of constituents must be expressed in such a way that no individual or group feels that they have been unfairly represented.

A Member who has declared an interest in a planning application, and is therefore unable to represent the interests of their Ward in respect of that application, should advise constituents to address their representations to another Member who is not so affected.

Being a Member of another committee that has expressed a view on an application does not prevent the Planning Control Committee Member reaching the same or a different view when the application is considered on its merits by the Planning Control Committee. However, the Member should approach the decision making process afresh and not express a final view in advance of the committee meeting or act as an advocate for another Council. To do so would give an appearance of bias.

Development Proposals submitted by Councillors and Officers

A Member who acts as an agent to people pursuing a planning matter or who has submitted, or intends to submit, or is closely connected with someone (e.g. a spouse or close relative) who has submitted, or intends to submit, a planning application should play no part in the decision making process for that proposal. This includes refraining from any form of lobbying of other Members. Nor should such a Member use their position to gain access to, or bring improper pressure to bear on, officers to pursue their interest.

In such circumstances, Members should notify the relevant Director of City Growth and Vibrancy and/or the Monitoring Officer in writing of any application with which they are connected directly before it is submitted to the Council.

Members should preferably appoint an agent to act on their behalf in negotiations or discussions, particularly in respect of major or controversial developments.

Where a Member or their agent submits an application in a personal capacity (either as an individual or through a company, firm or body with which they are connected) it shall always be considered by the Planning Control Committee. The Monitoring Officer shall be notified of the application and confirm in the report to Committee that the application has been dealt with in accordance with this Protocol.

A member of the Planning Control Committee contemplating making a planning application for development which is clearly contrary to approved planning policies should take no part in the decision-making process and declare their interest as detailed elsewhere in this Protocol.

Planning Applications by the Council

The Council itself requires planning permission to carry out or authorise certain types of development on land it owns. Where these are major applications, these will be determined by the Planning Control Committee. Proposals for the Council's own development will be treated with the same transparency and impartiality as those by private developers.

Gifts and Hospitality

Gifts and hospitality give rise to particular problems in respect of the credibility of the planning process. Members should have particular regard to the provisions of the Councillor's Code of Conduct, which includes requirements relating to the receipt and declaration of gifts and hospitality.

In particular, they must within 28 days report to the Monitoring Officer any offer of gifts or hospitality of over £50 for recording in the register of gifts, and they should avoid any behaviour which might be taken as indicating that they are open to such offers. Where Members have received or been offered hospitality by any parties involved in an application, recently or in the past and whether by the applicant, objector or supporter, they must give serious consideration to whether they should participate in making the decision.

Acceptance of gifts or hospitality by members or officers where linked to the improper use of their office can be a very serious criminal offence. Members should endeavour to avoid such inferences arising. Advice should be sought from the Council's Monitoring Officer.

Applicant and Public Representations at the Planning Control Committee

The Planning Control Committee has approved procedures to ensure that, where they receive representations from, or on behalf of, the applicant or from members of the public on a particular application, there is an opportunity for advocates both for and against the proposal to be heard in a balanced manner.

Complaints relating to breaches in Probity and Protocol

Details of how to refer a complaint can be found on the Council's website:

- [Complaints against councillors](#)
- [Complaints against officers](#)
- [Planning enforcement complaints](#)

Protocol on Speaking at Planning Control Committees

As an overarching, guiding principle, decisions should always be taken in a fair and transparent manner to ensure there are no grounds for suggesting that a planning decision has in any way been biased, partial, or not well founded.

The separate Planning Protocol (see above) applies to Members at all times when they are involving themselves in the planning process. The Monitoring Officer can also provide guidance to Members in relation to conduct on planning matters, as necessary.

1. The following can speak at Planning Control Committee meetings:
 - (a) The applicant or their agent.
 - (b) Up to two persons who wish to object and up to two persons who wish to support an individual planning application, an enforcement recommendation or any other quasi-judicial matter on the agenda. If there are more than two objectors/supporters, each group may organise a spokesperson to speak on their behalf.
 - (c) Ward councillors who are not members of the Planning Control Committee. If Ward councillors sit on the Planning Control Committee, they may nominate a substitute councillor to speak.
 - (d) Members of Parliament with the whole or part of their constituency within Derby City Council's boundaries.
 - (e) Additional speakers may be allowed at the discretion of the Chair of the Committee.
2. It is necessary to register with the Planning department as soon as possible and in any event not later than 5pm two clear working days prior to the Committee meeting. This applies to all speakers, including Ward councillors. Speakers are required to indicate whether they will be speaking against or in support of an application.
3. Late representations will not be heard. If there are several objectors/supporters, each group should organise a spokesperson to speak on their behalf. In the absence of agreement, the Council will operate a "first come first served" policy. In the event that more than two people have already registered, a person wishing to make their views known to the Committee may contact their Ward councillor to request that they put across their points.
4. If either an application is recommended for refusal or one or more objectors or Ward Members have registered to speak against an application recommended for approval, the applicant or their representative may speak at the Committee meeting.
5. Where a member of the public has registered to speak but fails to attend the meeting, the Chair shall have discretion to reallocate that speaking place to

another member of the public present who would otherwise have wished to speak. For the avoidance of doubt, such reallocation will be on a like-for-like basis, i.e. if the original registration was 'for', the reallocated place will also be 'for'.

6. If objectors intend to speak, the applicant will be contacted to ensure that they have the opportunity to reply.
7. The discussion on applications will be in the following order:
 - (a) The Chair of the Committee will announce the application;
 - (b) The Chief Planning Officer or their representative may present the item and will add any further information relevant to the application and report;
 - (c) Members of the public can then speak in the following order:
 - (i) Objectors
 - (ii) MP
 - (iii) Ward councillor(s)
 - (iv) Supporters
 - (v) Applicant/agent
 - (d) A planning officer may summarise issues before the matter is debated by the Planning Control Committee Members and a vote taken.
8. All speakers either in support of or against the application or speaking on behalf of the applicant will be allowed a maximum of three minutes to address the Committee. Participants addressing the Committee will be expected to cease talking immediately on being advised that their three minutes has concluded.
9. Any speakers who are not members of the Committee are only allowed to make statements. They may not ask questions of officers, the Committee or each other and must take no further part in the procedure once they have finished their address to the Committee.
10. Consideration of an application will not be delayed simply because someone who has registered to speak is unable to attend the meeting.
11. Addresses should only be about planning issues and should not refer to non-planning issues, such as private property rights, moral issues, loss of views or effects on property values.
12. Fresh material may not be circulated to the councillors, which has not first been seen by Planning officers.
13. Speakers may speak about material planning considerations and relevant facts pertinent to any planning application submitted to the Council that they have

made a written representation on, and which is on the agenda for determination at the Committee. Some examples of material planning considerations include:

- (a) The environmental impact of the development
- (b) The impact of the development on the highway network
- (c) Any policy in the council's local development framework, or the relevant local plan for your area.
- (d) Central and regional Government planning policy guidance, circulars, orders and statutory instruments

14. Issues that may be taken into account by the Committee include:

- (a) Planning laws and previous decisions
- (b) Noise, disturbance, smells
- (c) Residential amenity
- (d) Design, appearance and layout
- (e) Impact on trees, listed buildings and conservation areas
- (f) Public open space

15. Issues that will not be taken into account by the Committee include:

- (a) Boundary disputes
- (a) Private rights of way, private covenants or agreements
- (b) The applicant's conduct, private affairs or how a business is run
- (c) The applicant's motives (including profit)
- (d) The impact on property values
- (e) Suspected further development
- (f) Loss of views over other people's land
- (g) Land ownership

16. The circulation of plans, photographs, or other material at the Committee meeting will not be permitted. Any such documentation should be submitted to the Chief Planning Officer marked for the attention of the relevant Planning Officer as part of the existing consultation arrangements.

17. The Chair has discretion to permit questions from the Planning Control Committee members to the various speakers, after the end of their allotted 3 minutes.
18. A planning officer may summarise issues before the matter is debated by the Planning Control Committee members and a vote taken.
19. In the event of any dispute over these procedures or the protocol, the Chair's decision is final.

Protocol for Planning Control Committee Site Visits

1.0 Background

- 1.1 This Protocol is intended to guide members of the Planning Control Committee when considering planning applications in deciding on whether site visits are appropriate, and the procedure for arranging and carrying them out.
- 1.2 It is also intended to inform other stakeholders with an interest in planning applications, e.g. applicants, objectors and agents, about the purpose and procedures at site visits.
- 1.3 Site visits by the Committee are part of the formal Committee process and therefore should be dealt with in a consistent and organised manner. Administrative and procedural arrangements on site should be understood by all taking part, so that the process is transparent and fair.

2.0 The Purpose of a Site Visit

- 2.1 Site visits help in enabling Members of Planning Control Committee to understand more fully:
 - the details of a development proposal in the context of the application site,
 - the surrounding land and buildings,
 - issues raised by interested parties.
- 2.2 Site visits can be useful to identify features of a proposal, which may be difficult to convey in a written report, however they may delay the decision on an application.
- 2.3 In order to help avoid such delays procedures are in place to identify applications where site visits may be desirable. This enables Committee to determine whether site visits are likely to be necessary, and for them to be carried out prior to applications being reported to the Planning Control Committee.
- 2.4 When a member of the Committee feels that a site visit will be essential, he/she can either make a request to officers in advance, or in exceptional circumstances request the Planning Control Committee to defer the determination of the matter until a site visit has been held. Planning Control Committee is at liberty to consider requests from members of the public or ward members but in doing so should follow this guidance.
- 2.5 Where Planning Control Committee is requested to defer a determination to enable a site visit to take place, sound reasons should be given for the site visit and this should be recorded in the minutes.
- 2.6 Site visits, which may lead to deferral of an application, should only be held where:
 - the impact of the development is particularly difficult to visualise, or

- there is good reason why the comments of the applicant or objectors cannot be adequately expressed in writing, or
 - the proposal is particularly contentious, or
 - there are other justifiable reasons for requiring one.
- 2.7 Site visits should not be undertaken to defer difficult decisions on controversial applications, or when applicants, objectors or Members request them without good planning reasons.
- 2.8 Site visits are part of the meeting of Planning Control Committee. Members intending to declare a personal interest should make this known to the Chair and Planning Officer on site. If the interest is not prejudicial the Member may attend the site visit. They should ensure that their declaration is duly recorded in the minutes of the meeting when the matter comes before Committee for determination. Members intending to declare a prejudicial interest and withdraw from the meeting on the matter, should not attend the site visit.
- 2.9 Planning Committee members who fail to attend the site visit will need to consider whether they have sufficient knowledge of the site, and the issues arising from the site visit, to enable them to take part in determining the application.
- 2.10 The report to Committee is published 7 days in advance of the meeting with a view that should members of the Committee wish, they can undertake individual site visits to view the site from public land.

3.0 Arranging Site Visits

- 3.1 Where the Planning Control Committee considers that a site visit is necessary, the Planning Officer will make the necessary arrangements.
- 3.2 The following will be invited to the site visit:
- All Members of the Planning Control Committee
 - If appropriate, members of the Conservation and Heritage Advisory Committee
 - The agent (or, in the absence of an agent, the applicant) will be informed to secure permission to access the site and make arrangements to access the site.
- 3.2 Objectors/supporters would not normally be invited to attend a site visit. Any request for objectors/supporters to attend will be considered by and will be at the discretion of the Chair.
- 3.3 A copy of the Committee report, where available, plans and, where appropriate, the Site Visit Protocol will be sent to all those notified of the visit.
- 3.4 While officers will attempt to arrange the visit in advance with relevant parties, there is no right to enter on private land without permission of the owner. Where appropriate, officers will obtain prior permission from

landowner or his agent for those invited to attend the site visit to enter the land. If permission is not given for Members and officers to enter, the site will have to be viewed from the public highway/areas.

4.0 Procedure at Site Visits

- 4.1 The Chair of Planning Control Committee will oversee the conduct of site visits. They will start promptly at the time notified to Members and interested persons. The Planning Officer will note the names of all members, officers and invitees present. The Planning Officer will ensure, and if possible, reconfirm with the owner or his agent, that all those entering the site as part of the inspection have the owner's permission to do so.
- 4.2 Members should either travel to the site at the same time as, or with, the Planning Officer attending the visit, or meet the Officer on site. If present at the site before the visit begins, particular care should be taken to ensure that they maintain their objectivity. Hospitality or lifts should not be accepted from an applicant or objector, as this could be seen to show favour.
- 4.3 Members and officers, and other people attending, should ensure that mobile phones are turned off or are on silent during the site visit.
- 4.4 At the request of the Chair, the Planning Officer will describe the proposal to Members and will display plans or drawings of the proposal. If one is available, it is expected that members will already be familiar with the Planning Officers report. The Planning Officer will indicate matters of fact in relation to the proposal and surrounding land which Members should take account of.
- 4.5 Members of the Planning Control Committee may ask the Planning Officer for factual clarification of any planning matter relating to the proposal or surrounding land, for example, distances to adjoining or objectors' properties or the location of parking spaces. Member questions should be addressed to the Planning Officer through the Chair. **At no time during** the site visit should Members debate or comment on the planning merits or otherwise of a proposal. Members should not discuss the merits of the application, as the proper time for this is at the subsequent Committee meeting. To do so might imply that the Member's mind is already made up. Even comments on the scenery or locality could be perceived as a comment on the appropriateness of the proposal.
- 4.6 **The public right to address Planning Control Committee does not arise until the item is reached on the Committee agenda. At no time during the site visit will the applicant, their agent, any objector or any other member of the public be allowed to address Members. The site visit is not for further representations to be made, however occasionally it may be appropriate for interested parties at the site visit to be asked, through the Chair, to point out important or relevant site features, however they should not be encouraged to express opinions.**

- 4.7 On no account should presentations from interested parties be made. If one is commenced, the Chair should halt the proceedings to enable the site visit to resume unencumbered. Likewise, documentation or further narrative should not be circulated to Members.
- 4.8 In order to assist in ensuring that Members receive the same information, they should keep together in one group with the Chair and the Planning Officer, and not break away into small groups.
- 4.9 At the end of the site visit the Members should leave the site promptly. If necessary, they will drive or be transported to the next site visit where the same procedures as above will apply.
- 4.10 The Planning Officer's record of Members attendance at the site visit is given to the Democratic Services Officer for minute purposes.
- 4.11 When the application is reported to Committee for consideration and debate, the Planning Officer will briefly describe during the presentation of the item, the purpose of the site visit and the main aspects viewed.

Councillors' Allowances and Expenses Scheme

Derby City Council, in exercise of the powers conferred by the Local Authorities (Members Allowances) (England) Regulations 2003, made the following scheme on 27 February 2023 and amended its previous scheme made on 1 April 2022.

1. This scheme may be cited as the Derby City Council Councillors' Allowances Scheme and shall have effect in accordance with paragraph 13.

2. In this scheme:

'Councillor' means an elected member of Derby City Council;

'Year' means the 12 months ending with 31 March.

3. Basic Allowance

- (a) Subject to paragraph 9, for each year a Basic Allowance of **£12,145.24** shall be paid to each councillor.
- (b) Basic Allowances are to be adjusted annually, in line with the salary award for local government employees, up to and including the 2024/25 financial year.
- (c) Where a Member is suspended or partially suspended from their responsibilities or duties as a councillor, the part of the Basic Allowance payable to them in respect of the period for which they are suspended or partially suspended may be withheld by the Council.

4. Special Responsibility Allowances

- (a) For each year a Special Responsibility Allowance shall be paid to those councillors who hold the special responsibilities in relation to the authority, which are specified in Schedule 1 to this scheme.
- (b) Subject to paragraph 9, the amount of each such allowance shall be the amount specified against that special responsibility in that schedule.
- (c) Subject to paragraph (d), no councillor shall receive more than one Special Responsibility Allowance. Where a councillor is entitled to more than one such allowance, they shall receive the higher or highest allowance.
- (d) With the exception of the chair or vice chairs, a member of the Licensing Committee may receive a Special Responsibility Allowance payable as a member of that committee and its sub-committees in addition to any other Special Responsibility Allowance to which they may be entitled.
- (e) Special Responsibility Allowances are to be adjusted annually, in line with the salary award for local government employees, up to and including the 2024/25 financial year.

- (f) Where a member is suspended or partially suspended from their responsibilities or duties as a member of an authority, the part of any Special Responsibility Allowance payable to them in respect of the responsibility or duties from which they are suspended or partially suspended may be withheld by the Council.
- (g) In respect of offices where mandatory training is deemed to be required by the Chief Executive, upon expiry of an initial eight-week period following appointment and where reasonable opportunity has been provided for training to be completed, the Chief Executive may withhold payment of any Special Responsibility Allowance until such time as necessary training has been completed.

5. Travelling and Subsistence Allowances

- (a) Subject to paragraph 9, Travelling and Subsistence Allowances shall be payable to each councillor at the rates specified in Schedule 2 to this Scheme, for the approved duties listed in Schedule 3 to this Scheme.
- (b) On 5 March 2014, Council accepted the recommendation of the Independent Remuneration Panel (IRP), to comply with guidance issued by HMRC, that councillors can have only one place of work, that being the Council House. This ruling replaces the previous arrangement which accepted that a councillor's home was also a place of work. Councillors are no longer able to claim travel allowances for journeys between home and the Council House.
- (c) Where a councillor is suspended or partially suspended from their responsibilities or duties as a member of an authority, any travelling and subsistence allowance payable to them in respect of the responsibilities or duties from which they are suspended or partially suspended may be withheld by the Council.

6. Dependant Carer's Allowance

- (a) Subject to paragraph 9, a Dependant Carer's Allowance shall be paid to those councillors who incur expenditure on the care of children or other dependants while carrying out any of the approved duties listed in Schedule 3 to this Scheme.
- (b) A councillor claiming this allowance will be reimbursed actual costs up to the following maximum hourly rates, per dependant:
 - (i) For the care of children under 14 years of age, up to **£10.90** per hour.
 - (ii) For dependant adult care or children with enhanced needs, up to **£16.92** per hour, in line with the Council's commissioned hourly home care rate.

- (c) Rates for Dependant Carer's Allowance are to be adjusted annually, in line with the Real Living Wage for dependent childcare and the Council's commissioned hourly home care rate for dependent adult care or children with enhanced needs.
- (d) The Director of Corporate Governance, Property and Procurement may vary the provisions of the scheme to assist those claimants who require specialist care that costs more than the approved hourly rates, where it would be appropriate to do so.
- (e) The Director of Corporate Governance, Property and Procurement may authorise remuneration of costs incurred relating to informal care arrangements on an individual basis, subject to the requirements of paragraph 12c.

7. Co-optees' Allowance to Independent Members of the Standard's Committee and the Audit and Governance Committee

Subject to paragraph 9, a Co-Optees Allowance equivalent to 10 per cent of the Basic Allowance payable to councillors shall be paid to independent and co-opted members of the Council's Standard's Committee and the Audit and Governance Committee.

8. Youth Mayor Bursary

Subject to paragraph 9, a fixed-sum payment of £1,000 shall be made to the Youth Mayor and £750 to the Deputy Youth Mayor, upon confirmation of their election by Council.

9. Renunciation

- (a) A councillor or independent member may by notice in writing given to the Director of Finance elect to forego any part of their entitlement to an allowance under this scheme.
- (b) Where any scheme is in place for Council employees to receive a non-monetary benefit in lieu of some part of their salary, the Council may allow councillors to participate in any such scheme on the same terms and conditions as employees subject to any participating councillor electing to forgo part of their Basic Allowance in return for the non-monetary benefit.

10. Pensions

From 1 April 2014, councillors in England have been unable to join the Local Government Pension Scheme (LGPS).

11. Part-Year Entitlements

- (a) The provisions of this paragraph shall have effect to regulate the entitlements of a councillor to Basic and Special Responsibility Allowances where, in the course of a year, this scheme is amended or that councillor

becomes, or ceases to be, a councillor, or accepts or relinquishes a special responsibility in respect of which a Special Responsibility Allowance is payable.

- (b) If an amendment to this scheme changes the amount to which a councillor is entitled by way of a Basic Allowance or a Special Responsibility Allowance, then in relation to each of the periods:
 - (i) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
 - (ii) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year.
- (c) The entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this Scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.
- (d) Where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that councillor to a Basic Allowance shall be to the payment of such part of the Basic Allowance as bears to the whole the same proportion as the number of days during which his term of office subsists bears to the number of days in that year.
- (e) Where this Scheme is amended as mentioned in paragraph (b) and the term of office of a councillor does not subsist throughout the period mentioned in sub-paragraph (b)(i), the entitlement of any such councillor to a Basic Allowance shall be to the payment of such part of the Basic Allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his term of office as a councillor subsists bears to the number of days in that period.
- (f) Where a councillor has during part of, but not throughout, a year such special responsibilities as entitle them to a Special Responsibility Allowance, that councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.
- (g) Where this scheme is amended as mentioned in paragraph (b) and a councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph (b)(i), any such special responsibilities as entitle them to a Special Responsibility Allowance, that councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as

bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

12. Claims and Payments

- (a) Payments shall be made in respect of Basic and Special Responsibility Allowances (subject to paragraph (b)) in instalments of one-twelfth of the amount specified in this scheme on the 25th day of each month or the nearest working day to the 25th day.
- (b) Where a payment of one-twelfth of the amount specified in this scheme in respect of a Basic Allowance or a Special Responsibility Allowance would result in the councillor receiving more than the amount to which, by virtue of paragraph 9, they are entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which they are entitled.
- (c) Payments in respect of a Dependant Carer's Allowance will be based on the reimbursement of actual costs, supported by receipted accounts.
- (d) Payments in respect of Travelling and Subsistence Allowances will be based on a claim submitted by the councillor or independent member concerned.
- (e) A claim for a Travelling and Subsistence or Dependant Carer's Allowance must be made in writing within two months of the date on which the duty in respect of which the entitlement to the allowance arises.

13. Indexing and Backdating of Allowance

- (a) The Basic and Special Responsibility Allowances will be reviewed on an annual basis by the Independent Remuneration Panel.
- (b) In accordance with Regulation 10 of the Local Authorities (Members' Allowances) (England) Regulations 2003, an increase will be applied to Basic and Special Responsibility Allowances in the 2022/23, 2023/24 and 2024/25 financial years in respect of any pay award made to local government employees.
- (c) The allowances shown will be applied from 1 April 2023.

14. Application of Scheme

All provisions in this Scheme shall come into effect on 1 April 2023.

SCHEDULE 1

The following are specified as the special responsibilities in respect of which Special Responsibility Allowances (SRAs) are payable, and the amounts of those allowances, following the Constitutional Appointments at the Annual Meeting in May 2022.

	Position	Pro-rata Percentage	Number⁷⁵	Yearly Allowance
1	Leader of the Council	100%	1	36,435.73
2	Deputy Leader of the Council	75%	1	27,327.06
3	Other Council Cabinet Members	50%	6	18,218.39
4	Leader of Minority Group	25%	3 ⁷⁶	9,108.67
5	Deputy Leader of Minority Group	12.5%	1 ⁷⁷	4,554.33
6	The Mayor	25%	1	9,108.67
7	Chairs of Overview and Scrutiny Boards	25%	6	9,108.67
8	Vice Chairs of Overview and Scrutiny Boards	6.25%	5	2,227.69
9	Chairs of Regulatory Committees	25%	2	9,108.67
10	Chair of Audits and Governance Committee	17.5%	1	6,376.70
11	Chair of Personnel Committee	17.5%	1	6,376.70
12	Vice Chair of Planning Control Committee	12.5%	1	4,554.33
13	Vice Chairs of the Licensing Committee	12.5%	4	4,554.33
14	Members of the Licensing Committee	6.25%	10	2,277.69
15	Youth Mayor Bursary	N/A	1	1,000
16	Deputy Youth Mayor Bursary	N/A	1	750

⁷⁵ The figures in this column were correct at the point that the Scheme was set and are subject to variations in Constitutional Appointments. For actual figures contact Democratic Services on 01332 643643.

⁷⁶ The Leader of a Minority Group allowance is only payable to minority groups with a minimum of four members, following a resolution of Council on 22 May 2019.

⁷⁷ The Deputy Leader Minority Group allowance is only payable to minority groups with a minimum of ten members, following recommendations from the Independent Remuneration Panel.

SCHEDULE 2

Rates for Travelling and Subsistence Allowances

Travelling Allowances

Members will be able to claim the following rates for travel when using their vehicle:

Motor cycle	Not exceeding 500 cc	9.6p per mile
Motor cycle	Over 500 cc	14.8p per mile
Motor car etc		45p per mile
Cycle		15p per mile

An additional 5p per mile payable for motor vehicle travel when carrying passengers who are either fellow councillors undertaking approved duties or employees of the Council.

The following can be claimed when journeys are made by public transport or taxi:

- (a) bus - actual fare charged;
- (b) rail - standard class fare;
- (c) taxi - actual fare charged.

Subsistence Allowances

Period of Absence

Not involving absence overnight

Breakfast Duty of 4 hours, before 11.00 am - £4.48

Lunch Duty of 4 hours including 12 noon to 2.00 pm - £6.17

Tea Duty of 4 hours including 3.00 pm to 6.00 pm - £2.43

Dinner Duty of 4 hours ending after 7.00 pm - £7.64

Overnight absence (deemed to cover a continuous period of 24 hours) - £79.82

London and Annual Conferences of the LGA - £91.04

Please ensure that all travel and subsistence allowance claims (other than for cycle allowance) are supported by a recent VAT receipt.

SCHEDULE 3

Approved Duties for the Purposes of Travelling and Subsistence and Dependant Carer's Allowances within categories specified by the Local Authorities (Members' Allowances) (England) Regulations 2003

- (a) The attendance at a meeting of the authority or of any committee or sub-committee of the authority, or of any other body to which the authority makes appointments or nominations, or of any committee or sub-committee of such a body;
- (b) The attendance at any other meeting, the holding of which is authorised by the authority, or a committee or sub-committee of the authority, or a joint committee of the authority and one or more local authority within the meaning of section 270(1) of the Local Government Act 1972, or a sub-committee of such a joint committee provided that:
 - (i) where the authority is divided into two or more political groups it is a meeting to which members of at least two such groups have been invited, or
 - (ii) if the authority is not so divided, it is a meeting to which at least two members of the authority have been invited;
- (c) The attendance at a meeting of any association of authorities of which the authority is a member;
- (d) The attendance at a meeting of the Executive (Cabinet) or a meeting of any of its committees, where the authority is operating executive arrangements;
- (e) The performance of any duty in pursuance of any standing order made under section 135 of the Local Government Act 1972 requiring a member or members to be present while tender documents are opened;
- (f) The performance of any duty in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises;
- (g) The performance of any duty in connection with arrangements made by the authority for the attendance of pupils at any school approved for the purposes of section 342 (approval of non-maintained special schools) of the Education Act 1996.

Other Approved Duties

The carrying out of the following duties insofar as they are for the purpose of, or in connection with, the discharge of the functions of the Council or any of its committees or sub committees. These duties shall not include 'case work' on behalf of constituents or work in relation to individual preparation for formal meetings.

- (a) Duty of a Cabinet Member or a chair of a committee, sub-committee, board or panel within the city boundary, subject to a maximum of twenty visits per calendar month.
- (b) Any duty of a vice chair of a committee, sub-committee, board or panel within the city boundary, at the request of the chair of that committees, sub-committee, board or panel. Such duty shall be within and counted as part of the maximum limits permitted for the chair but shall be in addition to duties defined in (k) below.
- (c) Visits by leaders and deputy leaders of each political group to the Council's offices to discuss Council business subject to a maximum of ten visits per month. Such visits by a leader and deputy leader to be additional to the visits permitted as chair or vice chair of a committee, sub-committee, board or panel of the Council.
- (d) Visits by councillors (other than leaders, deputy leaders and chairs of committees, sub-committees, boards or panels) to the Council's offices to discuss Council business or to attend meetings, subject to a maximum of fifty such visits or attendances a year. In the case of opposition spokespersons (who are nominated as such to the Director of Finance) the maximum number of visits shall be sixty a year.
- (e) Attendance by members at meetings with trade union officials to discuss conditions of service.
- (f) Visits, inspections, annual tours or official openings of new Council premises.
- (g) Official visits outside the Council area with the prior approval of the Cabinet or the appropriate committee, sub-committee, board or panel and, if abroad, with the prior approval of the Council.
- (h) Attendance at conferences, seminars and meetings as approved by the Council or the Director of Finance.
- (i) Attendance at public meetings and public inquiries when acting in the capacity of a councillor or an office of special responsibility.
- (j) Attendance at councillors' surgeries and any meeting to which a member is invited as a ward councillor.
- (k) Attendance, with the prior written approval of the Chief Executive, at any meeting not otherwise provided for in this list and where the Chief Executive considers it appropriate and necessary on the grounds of urgency to grant such approval in the interest of the efficient conduct of the Council's affairs. Such attendance to be additional to any entitlements contained in other paragraphs.

- (l) Attendance where requested by the Director of Finance or the Director of Corporate Governance, Property and Procurement in furtherance of legal proceedings involving the Council.

9. OFFICERS

The Council's Staff

The Council has employed staff working in many different ways to deliver services. Staff are referred to in this Constitution as officers. They give advice, implement decisions and manage the day-to-day delivery of services, ensuring that they operate impartially and work with all elected members equally. The most senior of these is the Chief Executive who is also the Head of Paid Service. All officers are required to ensure that the Council operates within the law and uses its resources wisely. The Protocol which governs the relationships between officers and Members of the Council is in Part 8.

Management Structure

Details of the Council's management structure can be found on the Council's website.⁷⁸

The operational functions of the Council are led by the Chief Executive, supported by the Strategic Director of People and the Strategic Director of Place. Service Directors and Heads of Service lead the day-to-day planning and delivery of services, split into three strategic directorates:

Chief Executive's Directorate

The Chief Executive's Directorate includes all the professional services needed for the efficient running and good governance of the Council, such as finance, property, HR, legal, democratic services and customer services.

People Services Directorate

People Services brings together all our services for adults in need of support, children and families, learning and skills, and public health. The directorate works closely with the Council's partners to provide individuals and families with joined-up services that help them achieve the best outcomes.

Place Directorate

Place manages many of the services most visible to the public, such as waste collection and recycling, highways and traffic, leisure, culture, parks, environmental protection, community safety, licensing and regulation, planning and the regeneration and future development of Derby.

⁷⁸ [Council departments - About the Council](#)

Scheme of Delegation to Officers

INTRODUCTIONS AND PERMISSIONS

Introduction

1. Derby City Council has adopted vision and values supporting a Council Plan. To support the delivery of the Council Plan, managerial and operational decisions are taken, within a framework of democratic accountability, at the most appropriate level, which is usually the closest point of contact to the citizen. This scheme is to be interpreted widely to give effect to this overall purpose by empowering staff 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.

Overall Limitations

2. Any exercise of delegated powers is subject to the following overriding limitations.

Member Consultation

3. Officers set out in the scheme are expected to:
 - (a) maintain a close liaison with the appropriate portfolio holder or in their absence the Leader;
 - (b) consult relevant portfolio holders when exercising temporary or project specific delegations;
 - (c) ensure the Ward Councillors are consulted or advised of the exercise of any delegated powers that particularly affect their area; and
 - (d) ensure that the Chief Executive (Head of Paid Service), Director of Finance (s.151 Officer) and the Director of Corporate Governance, Property and Procurement (Monitoring Officer) are consulted and advised of any decisions as necessary.
4. Portfolio holders for the relevant area should be consulted on the exercise of a delegated power in all cases where:
 - (a) there is likely to be opposition from members of the public;
 - (b) where there are political sensitivities;
 - (c) there is likely to be media (including social media) interest or
5. Before exercising any delegated power, officers must consider whether to consult with the relevant portfolio holder on the exercise of delegated powers, or not to exercise delegated powers and to refer the matter instead to the relevant member or member body to decide.

6. 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 member body for a decision.
7. This does not limit the general requirements set out elsewhere in the constitution to consult with relevant ward members, scrutiny chairs and interested groups in reaching decisions.

Reservations

8. The scheme does not delegate to officers:
 - (a) any matter reserved to full Council;
 - (b) any matter which by law may not be delegated to an officer;
 - (c) any Key Decision; or
 - (d) any matter expressly withdrawn from delegation by the Council, committees, Leader or Cabinet.

Restrictions

9. Any exercise of delegated powers is subject to
 - (a) any statutory restrictions;
 - (b) the Budget and Policy Framework;
 - (c) any provision contained in this Constitution, including the Procedure Rules;
 - (d) any financial limits set out in the revenue or capital budgets, except as set out in the Financial Procedure Rules;
 - (e) any policy set by the Council or its committees, the Cabinet or the Chief Executive; and
 - (f) the Employee Code of Conduct.

Permissions

10. This scheme delegates to the Strategic Directors and Directors all the powers and duties relevant to those areas of responsibility detailed within the areas of responsibility below that rest with the Council or which have been delegated or granted to the Council, subject to the limitations, restrictions, reservations and requirements for consultation set out above. This includes all powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation including but not limited to:
 - a. Powers in relation to staff

Take 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.

b. Powers in relation to contracts

Except as detailed in the Contracts Exceptions Charts:

- To seek quotations, put out to tender, negotiate, enter into, vary, terminate contracts for the provision to the Council of goods, services or works.
- To bid/tender for, negotiate, enter into, vary, terminate contracts for the provision by the Council of goods, services or works.

c. Powers in relation to property

To market, negotiate, enter into, vary or terminate any agreements in respect of the Council's existing or future land/property interests, except as detailed in the Property Exceptions Charts below.

d. Powers in relation to planning

To determine applications, grant permission, refuse permission, to publicise applications, to comment or make representations on applications, notifications and consultations, to raise objections, to require documentation and information, to take appropriate action on enforcement, to negotiate, complete, vary, discharge or amend planning obligations and agreements, process and determine all decisions relating to neighbourhood planning under the Localism Act 2011, except as detailed in the Legal Exceptions Chart below.

e. Powers in relation to finance

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, except as detailed in the Finance Exceptions Chart below.

f. Powers in relation to legal action

Powers to authorise, appoint or nominate officers and to investigate, prosecute, enforce, lay informations, require individuals to disclose information, serve requisitions, publish information, apply to a court, sign notices, issue, serve, vary, revoke and publish notices, including fixed penalty notices and serve documents, make prohibition orders, suspend or vary a prohibition order, take emergency remedial action, carry out works in default, issue certificates, issue consents, issue and grant licenses and license applications, issue permits, refuse, vary or revoke licensing applications, issue temporary exemption notices, obtain, introduce, operate, amend, extend, vary and revoke orders, impose conditions, introduce and maintain

registers, exercise powers of entry without force, apply for a warrant, make, 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, except as detailed in the Legal Exceptions Chart below.

The Chief Executive

11. The Chief Executive may carry out the powers and duties of the Strategic Directors and Directors in their absence or in consultation with them (except where statutorily prohibited) and will also have the following additional powers:

- (a) To carry out the powers and duties of any of the officers in their absence or in consultation with them;
- (b) To incur expenditure and mobilise the resources of the Council in the event of a civil emergency;
- (c) In cases of emergency to take any decision which could be taken by the council, the cabinet or a committee, in consultation with the Leader. An 'emergency' is to include cases which fall short of a declared emergency but are nevertheless situations in which there will be a risk of significant detriment to the wellbeing of the council or residents if action is not taken.
- (d) To alter the areas of responsibility of the strategic directors, and directors set out in the areas of responsibility section of this scheme;
- (e) To make arrangements for the appointment of Chief Officer and Deputy Chief Officer roles.
- (f) To agree the human resources policies following relevant consultation, subject to any delegations to the Employment and Personnel Committee.
- (g) To make any changes necessary to the Employee Code of Conduct following relevant consultation.

The Monitoring Officer

12. The Monitoring Officer has delegated authority to:

- (a) Grant dispensations to councillors in accordance with the Localism Act 2011 with the power to refer any request for a dispensation back to the Standards Committee.
- (b) Make consequential amendments to the Constitution to give effect to a lawful decision; as a direct consequence of a change made outside the council e.g. a change in legislation and to correct an error or resolve an inconsistency. All such changes to be reported to Council.

- (c) Interpret the Constitution where the meaning is uncertain or there is a dispute about its meaning.
- (d) Institute, defend, participate in or settle the terms of any actual or prospective legal proceedings where it is necessary to give effect to decisions of the Council or where the Monitoring Officer considers that such action is necessary to protect the Council's interests.
- (e) Affix the Common Seal to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the Common Seal will be authorised by the Monitoring Officer or some other person authorised by them. The Monitoring Officer may adopt such means of sealing as they consider appropriate, including electronic sealing in accordance with section 7A(1) of the Electronic Communications Act 2000 (as may be amended from time to time). Affixing of an electronic seal approved in this way shall be of the same legal effect as affixing the Common Seal of the Council (provided that where a witness is required, the additional formalities for witnessing the electronic execution are complied with).

The Section 151 Officer

13. The Section 151 Officer has delegated authority to carry out those responsibilities set out as delegated to them in the Financial Procedure Rules within this Constitution.

Strategic Directors and Directors

14. The Strategic Directors and Directors may carry out the powers and duties of any direct reports within their area of responsibility in their absence or in consultation with them.

Officer Delegation

15. Derby City Council operates an 'Executive' form of governance, under which most decisions are taken by a Leader and a small Executive or Cabinet of elected members. These members take decisions on Executive functions. Other decisions (Non-Executive decisions) are taken by full Council, committees and sub-committees. In both cases, decisions can be delegated to officers. The Non-Executive functions are listed in legislation⁷⁹, and includes decisions by full Council and committees on planning, licensing, staffing, audit, member conduct and other miscellaneous matters. Anything not in the list is an Executive function.

⁷⁹ Principally the [Local Government Act 2000](#) and the [Local Authorities \(Functions and Responsibilities\) \(England\) Regulations 2000](#) (as amended).

16. Any delegation to an officer includes authority for any further authorisation within the relevant Area of Responsibility. Officers shall devolve responsibilities for service delivery and management to those staff who represent the nearest practicable point of delivery to the service user.

AREAS OF RESPONSIBILITY

17. See Management Structure chart above for a list of functions. Further details of the contents of each heading is in the list held by the Chief Executive, which they have authority to change and responsibility for keeping up to date.

Chief Officer	Main Functions and Areas of Responsibility
Chief Executive	In addition to the Chief Executive's overarching responsibility as the Head of Paid Service, the Chief Executive's directorate includes all the professional services needed for the efficient running and good governance of the Council, such as finance, property, HR, legal, democratic services and customer services.
Strategic Director for People Services	People Services brings together all our services for adults in need of support, children and families, learning and skills, and public health. We work closely with our partners to provide individuals and families with joined-up services that help them achieve the best outcomes.
Strategic Director for Place	Place manages many of the services most visible to the public, such as waste collection and recycling, highways and traffic, leisure, culture, parks, environmental protection, community safety, licensing and regulation, planning and the regeneration and future development of Derby.

EXCEPTIONS – CONTRACTING

(In exercising delegated powers, officers are reminded to take account of the overall limitations of the scheme, as detailed in the introduction to the scheme)

All contracts and procurement must be in accordance with the Contract Rules in Part 9

*Contract value is over the whole contract and any extension provision not the annual spend

Process	Over the Regulations Threshold	£100,000 to Regulations Threshold	£25,000 - £100,000
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Pre-Procurement Authorisation	Officer and Procurement Team. Executive Process if Key Decision	Officer and Procurement Team. Executive Process if Key Decision	Officer. Executive Process if Key Decision.
Advertising	Head of Procurement through the Procurement Team	Head of Procurement through the Procurement Team	Officer through the Procurement Team if required
Procurement Process	Head of Procurement through the Procurement Team must be consulted	Head of Procurement through the Procurement Team must be consulted	Officer
Contract, Deed or Grant Execution	Written contract, deed or grant signed/sealed by Director of Corporate Governance, Property and Procurement or their nominated Officer	Written contract deed or grant signed/sealed by Director of Corporate Governance, Property and Procurement or their nominated Officer.	Written contract or grant signed by one Strategic Director, Service Director Officer with appropriate authority to enter into a Contract. Note: Deeds must be executed by Legal Services.
Additions to the Contract Register	Officer or Head of Procurement through the Procurement Team if leading procurement.	Officer or Head of Procurement through the Procurement Team if leading procurement.	Officer
Establishing framework Agreements or DPSs (Dynamic Purchasing Systems)	Head of Procurement through the Procurement Team. Executive Process if Key Decision	Head of Procurement through the Procurement Team. Executive Process if Key Decision	Officer. Executive Process if Key Decision

Waive Contract Procedure Rules	Strategic Director or Service Director, Head of Procurement, S151 Officer and Monitoring Officer. Executive Process if Key Decision	Service Director, Head of Procurement, S151 Officer and Monitoring Officer. Executive Process if Key Decision	Service Director, Head of Procurement, S151 Officer. Executive Process if Key Decision
Notification of Award	Officer on advice of Head of Procurement through the Procurement Team	Officer on advice of Head of Procurement through the Procurement Team	Officer
Contract Variations (material change)	Not permitted. A new Procurement is required.	Officer with the agreement of Director of Corporate Governance, Property and Procurement or nominated legal representative.	Officer with the agreement of Director of Corporate Governance, Property and Procurement or nominated legal representative.
Extension of Fixed Term Contracts with option to extend	In consultation with relevant Cabinet Member and with the agreement of Head of Procurement and Director of Corporate Governance, Property and Procurement.	With the agreement of Head of Procurement and Director of Corporate Governance, Property and Procurement or nominated legal representative.	With the agreement of Head of Procurement through the Procurement Team and nominated legal representative
Termination of Contract prior to its expiry date	Head of Procurement and Director of Corporate Governance, Property and Procurement.	Authorised Officer in consultation with Director of Corporate Governance, Property and Procurement or nominated legal representative.	Authorised Officer in consultation with Director of Corporate Governance, Property and Procurement or nominated legal representative.

EXCEPTIONS – INFORMATION TECHNOLOGY

(In exercising delegated powers, officers are reminded to take account of the overall limitations of the scheme, as detailed in the introduction to the scheme)

All contracts and procurement must be in accordance with the Contract Rules in Part 9.

*Contract value is over the whole contract and any extension provision not the annual spend

Process	Over £100,000	Under £100,000
IT Hardware and Infrastructure Any infrastructure equipment, associated projects, implementations and devices which store or process personal data and their associated peripherals. Including, but not limited to printers, laptops, mobile phones, monitors, tablets, etc	Director of Digital and Physical Infrastructure and Cyber Security and Head of Procurement through the Procurement Team.	Director of Digital and Physical Infrastructure and Customer Engagement acting on the advice of the relevant officer from the service, and via the Head of ICT – Infrastructure and Cyber Defence, their delegated team and ordering processes.
Business Applications, Systems and Digital Developments Any digital system or development that stores and uses council data; whether purchased directly as a system or outsourced to a third-party to run.	Executive Process if Key Decision	Director of Digital and Physical Infrastructure and Customer Engagement acting on the advice of the relevant officer from the service in question, and via the Head of Digital Enablement and Automation, their delegated team and ordering processes.

EXCEPTIONS - PROPERTY

(In exercising delegated powers, officers are reminded to take account of the overall limitations of the scheme, as detailed in the introduction to the scheme). NB The term Property/Land includes all interests in Land including (wayleaves, easements, buildings). Values relate to 'the interest disposed of value' not 'the unrestricted value' of the land).

Process	Officer Delegation	Cabinet Approval	Council Approval
Disposal and Acquisition of Land			
Asset Management Plan	No	Yes and a Key Decision	No
Acquisition or disposal over £500,000	No	Yes and a Key Decision	Yes – if new borrowing is required.
Acquisition or disposal under £500,000	Director of Corporate Governance, Property and Procurement in consultation with the S151 Officer and Portfolio Holder	Not unless required by the Portfolio Holder	Yes – if new borrowing is required.
Disposal at an undervalue less than £500,000	Director of Corporate Governance, Property and Procurement in consultation with the S.151 Officer and Portfolio Holder	Not unless required by the Portfolio Holder	No
Disposal at an undervalue greater than £500,000	No	Yes and a Key Decision	No
Grant or take leases where the total value of the lease does not exceed £500,000 ⁸⁰	Director of Corporate Governance, Property and Procurement	Not unless required by the Portfolio Holder	No
Grant or take leases where the total value of the lease exceeds £500,000	No	Yes and a Key Decision	No
Grant of Rights over land and property where the total value of the right over its term does not exceed £500,000	Director of Corporate Governance, Property and Procurement	Yes and a Key Decision	No

⁸⁰ Lease value is calculated by multiplying the length of term by the initial annual rent

Grant of rights over land and property where the total value of the right over its term exceeds £500,000	No	Yes and a Key Decision	No
Declaring property surplus with a value under £500,000	Director of Corporate Governance, Property and Procurement in consultation with the S.151 Officer and Portfolio Holder	Not unless required by the Portfolio Holder	No
Declaring property surplus with a value over £500,000	No	Yes and a Key Decision	No

EXCEPTIONS - FINANCE

(In exercising delegated powers, officers are reminded to take account of the overall limitations of the scheme, as detailed in the introduction to the scheme.)

Exception	Over £500k	Up to £500k	Up to £100k	Up to £25k
Capital Expenditure outside the Capital Programme	Council Cabinet – Key Decision - Full Council if additional borrowing required	Council Cabinet - Full Council if additional borrowing required	Council Cabinet - Full Council if additional borrowing required	Council Cabinet - Full Council if additional borrowing required
Non Technical Virements	Cabinet	Strategic Director in consultation with Cabinet Portfolio Holder(s)	S151	S151 for cross-portfolio virements
Ex gratia payments	N/A	N/A	N/A	Chief Executive, in consultation with S151 and Monitoring Officer.

Write off debts	Cabinet	Cabinet	Cabinet	S151 in consultation with Chief Executive or Strategic Director
Approve Borrowing Limits	Council	Council	Council	Council
Submit bids for funding to the relevant body	Cabinet – not a Key Decision	Chief Executive or Strategic Director in consultation with S151 and Head of Corporate Finance	Chief Executive or Strategic Director in consultation with S151 and Head of Corporate Finance	Chief Executive or Strategic Director in consultation with S151 and Head of Corporate Finance
To agree conditions and approve agreements in relation to grant funding to be received by the Council	Cabinet – not a Key Decision	Chief Executive or Strategic Director in consultation with S151, relevant Head of Finance and Legal Services.	Chief Executive or Strategic Director in consultation with S151, relevant Head of Finance and Legal Services.	Chief Executive or Strategic Director in consultation with S151, relevant Head of Finance and Legal Services.
Write off any surplus or deficiencies in respect of items of stock	Cabinet	S151	S151	S151
Negotiate leasing arrangements	Strategic Director in consultation with S151	Strategic Director in consultation with S151	Strategic Director in consultation with S151	Strategic Director in consultation with S151
Effect necessary insurances	Director of Corporate Governance, Property and Procurement	Director of Corporate Governance, Property and Procurement	Director of Corporate Governance, Property and Procurement	Director of Corporate Governance, Property and Procurement

Settle insurance claims	Monitoring Officer in consultation with S151	Monitoring Officer in consultation with S151	Monitoring Officer in consultation with S151	Monitoring Officer in consultation with S151
To vary the scale of fees and charges within year to reflect market conditions	Budget Manager and S151	Budget Manager and S151	Budget Manager and S151	Budget Manager and S151
To set new fees and charges within year, unless prescribed by legislation.	Cabinet as Key Decision	Cabinet Member in consultation with Strategic Director	Cabinet Member in consultation with Strategic Director	S151

EXCEPTIONS – STAFF AND EMPLOYMENT

	Officer Delegation	Statutory Cabinet Member Consultation	Member Decision	Council Decision
Note: This element of the scheme is dictated by the Local Government and Housing Act 1989 and the Standing Orders Regulations				
Appointment of Chief Executive	No (cannot be carried out by officers).	Yes, through the MO	Yes, must be made by Full Council	On recommendation from Appointments Panel Sub-Committee
Appointment of Chief Officers (Strategic Directors)	No (possible exception where there is change management and the appointment is internal).	Yes, through the MO	Appointments Panel Sub-Committee	Only if required by Council

Appointment of Deputy Chief Officers (Service Directors)	No (possible exception where there is change management and the appointment is internal).	Yes, through the MO	Appointments Panel Sub-Committee	Only if required by Council
Appointment below Deputy Chief Officer	Yes	No	No	No
Dismissal of Chief Executive (as Head of Paid Service), Chief Finance Officer and Monitoring Officer	Cannot be delegated to officers	Yes, in accordance with agreed procedure.	An independent report must be prepared before a decision can be made	Special Meeting of Council must be convened
Dismissal of Statutory Chief Officers (other than those specified in the preceding row)	Cannot be delegated solely to officers	No	In accordance with prescribed procedure	In accordance with prescribed procedure
Dismissal of non-Statutory Chief Officer	Not delegated solely to officers	No	In accordance with prescribed procedure	In accordance with prescribed procedure
Dismissal by way of redundancy or voluntary redundancy for Chief Officers and Deputy Chief Officers	No	No	In accordance with prescribed procedure	In accordance with prescribed procedure
Dismissal of staff below	Service Directors, in accordance	No	No	No

Deputy Chief Officer	with prescribed procedure			
Dismissal of staff below Head of Service	Head of Service, in accordance with prescribed procedure	No	No	No
Determine appeals against final written warnings below Directors	Relevant authorised managers.	No	No	No
Issue HR1 notices in respect of potential redundancies	Director of Finance	No	No	No
To carry out powers and duties under the Health and Safety at Work Act	Chief Executive	No	No	No
Issue 'certificates of opinion' as to whether or not the duties of a post fall within the criteria of political sensitivity	Director of Corporate Governance, Property and Procurement (Monitoring Officer)	No	No	No

EXCEPTIONS - LEGAL

(In exercising delegated powers, officers are reminded to take account of the overall limitations of the scheme, as detailed in the introduction to the scheme).

Function	Officer
Determine all applications made under powers and duties of the local planning authority and planning legislation in relation to applications and enforcement	Strategic Director for Place, except where: <ul style="list-style-type: none"> a) The decision would lead to a significant departure from the Local Plan; b) Where called in by at least one member; c) Major applications to develop the Council's own land; d) Applications by relevant officers employed by the Council. e) Applications deemed by the Strategic Director to require a member decision.
Make applications to the Court of Protection for Receivership Orders in relation to clients lacking mental capacity to carry out their financial affairs	Strategic Director for People Services
Apply to become an appointee in relation to clients lacking capacity to carry out their financial affairs	Strategic Director for People Services
Carry out the health functions delegated to the Authority by an NHS body under arrangements between NHS bodies and local authorities pursuant to section 31 Health Act 1999	Strategic Director for People Services
Determine liability, demand payment, make arrangements for collection and take action for recovery of Council Tax and Non-Domestic Rates	Director of Finance
Defend and settle all actual and prospective claims made against the Council up to £500,000	Director of Corporate Governance, Property and Procurement (Monitoring Officer)
Determine details required by conditions imposed on any permission.	Strategic Director for Place
Determine minor amendments to approved plans where these do not	Strategic Director for Place

materially alter the form of the approved development	
The exercise of operational powers and functions of the Authority in respect of hackney carriage and private hire licensing matters	Strategic Director for Place, except where an applicant has relevant convictions/cautions or a current licence holder is similarly convicted/cautioned and/or where an applicant for, or the current holder of a Hackney Carriage/Private Hire driver's licence has nine or more points on their DVLA driving licence
The exercise of operational powers and functions in respect of the Scrap Metal Dealers Act 2013.	Strategic Director for Place
To approve Public Spaces Protection Orders (PSPOs), unless they are likely to be considered to be sensitive or significant.	Strategic Director for People Services
To authorise the affixing of the seal of the Council (and to authorise any other Solicitor of the Council to authorise the affixing of the seal) and hold a register kept for the purpose that contains a consecutively numbered entry of every sealing initialled by the person who has authorised the affixing of the seal.	Director of Corporate Governance, Property and Procurement
Exercise the powers and functions of the local authority under the Proceeds of Crime Act 2002 or any variation or amendment thereof or regulations made thereunder.	Director of Corporate Governance, Property and Procurement
Authorise any officer of the Council to prosecute, or defend on its behalf, or to appear on its behalf in, proceedings before a Magistrates Court, in accordance with Section 223 of the Local Government Act 1972	Director of Corporate Governance, Property and Procurement
Make orders or take any other steps in relation to any legislation when instructed by the officer with the relevant area of responsibility	Director of Corporate Governance, Property and Procurement

Appoint Education Appeal Panel members, in accordance with the provisions of the Education (Admission Appeals Arrangements) (England) (Regulations 2002), as amended, such appointments to last for a period of three years then membership be re-assessed and re-appointments made as appropriate	Director of Corporate Governance, Property and Procurement
Determining applications affecting the registers of commons and village greens (under the Commons Act 2006 and any subsequent legislation).	Director of Corporate Governance, Property and Procurement, except in the case of contested matters, or matters which require oral representation or an inquiry, where an Independent Inspector shall be appointed to determine the application.
To carry out powers in relation to assets of community value under Part 5 Chapter 3 of the Localism Act 2011.	<p>Powers to determine whether an asset should be placed on the list – Strategic Director for Place.</p> <p>Powers to determine reviews – Director of Corporate Governance, Property and Procurement</p>

EXCEPTIONS - PENSIONS

(In exercising delegated powers, officers are reminded to take account of the overall limitations of the scheme, as detailed in the introduction to the scheme).

<p>Director of Finance (Section 151 Officer)</p> <p>(The Council's responsibilities are discharged via the Derbyshire Pension Fund administered by Derbyshire County Council. Further delegations can be found in the administering authority's discretions or within individual policy or strategy documents published on the Pension Fund's website as approved by the Derbyshire Pension and Investments Committee).</p>	<p>Management and administration of the Local Government Pension Scheme</p> <p>Authority to maintain Derby City Council's responsibility for the management and administration of the Local Government Pension Scheme Regulations with regard to overriding legislation and guidance including statutory guidance, including the exercise of the administering authority's discretions.</p>
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Proper Officers

SCHEDULE OF APPOINTMENTS⁸¹

PURPOSE OF APPOINTMENT		
Any reference to the Clerk of a council which, by virtue of the Local Government Act 1972, is to be construed as a reference to the Proper Officer of the Council		Chief Executive
Any reference to the Treasurer of a council which, by virtue of the Local Government Act 1972, is to be construed as reference to the Proper Officer of the Council		Director of Finance
LANDLORD AND TENANT ACT 1927, s.23 LANDLORD AND TENANT ACT 1954, s.66		
Section	Brief details of responsibility	Proper Officer
	The Proper Officer to serve and receive notices on behalf of the Council	Monitoring Officer
PUBLIC HEALTH ACT 1936		
Section	Brief Details of Responsibility	Proper Officer
	s.79(1) – Removal of noxious matter	Director of Communities
	s.84 – Removal of filthy or verminous articles	Director of Communities
85(2)	Serving a notice requiring action to deal with verminous people and things	Director of Communities
PREVENTION OF DAMAGE BY PESTS ACT 1949		

⁸¹ Pursuant to Section 100(G)(2) of the Local Government Act 1972.

Section	Brief Details of Responsibility	Proper Officer
22	Authorised person to enter land in relation to the performance of functions under the Act	Director of Communities
REGISTRATION SERVICE ACT 1953 AND REGULATIONS 1968-1994		
Section	Brief Details of Responsibility	Proper Officer
9(1) and (2)	Appointment of interim superintendent registrars and registrars	Director of Digital and Physical Infrastructure & Customer Services
13(2)(h) and 3(b)	Powers under the local scheme of organisation	Director of Digital and Physical Infrastructure & Customer Services
20	Proper officer for births, deaths and marriages	Director of Corporate Governance, Property and Procurement
CARAVAN SITES AND CONTROL OF DEVELOPMENT ACT 1960		
Section	Brief Details of Responsibility	Proper Officer
26	Authorised officer to enter land in relation to functions under the Act	Director of Communities
ANIMAL BOARDING ESTABLISHMENTS ACT 1963		
Section	Brief Details of Responsibility	Proper Officer
2	Authorised person to inspect premises in relation to functions under the Act	Director of Communities

RIDING ESTABLISHMENTS ACT 1964		
Section	Brief Details of Responsibility	Proper Officer
2	Authorised person to inspect premises in relation to functions under the Act	Director of Communities
AGRICULTURE ACT 1970		
Section	Brief Details of Responsibility	Proper Officer
67(3)	Appointment as Agricultural Analyst	Director of Communities
LOCAL AUTHORITY SOCIAL SERVICES ACT 1970		
Section	Brief Details of Responsibility	Proper Officer
6(A1)	Director of Adult Social Services	Strategic Director of People Services
TOWN AND COUNTRY PLANNING ACT 1971		
Section	Brief Details of Responsibility	Proper Officer
54(4)	Appointment as clerk of the local planning authority	Strategic Director of Place
LOCAL GOVERNMENT ACT 1972		
Section	Brief Details of Responsibility	Proper Officer
13(3)	Parish Trustee where no Parish Council	Monitoring Officer
83(1)	The officer to whom a person elected to the office of Councillor shall deliver a declaration	Monitoring Officer

	of acceptance of office on a form prescribed by rules made under s.42 of the Act	
83(3)(b)	The officer before whom a declaration of acceptance of office of Chair of Council or Deputy Chair of Council may be made	Monitoring Officer
84	The officer to whom written notice of resignation of elected office shall be delivered	Monitoring Officer
86	To declare any vacancy in any office under the Section	Monitoring Officer
88(2)	The officer by whom a meeting of the Council for the election of the vacant office of Chair of the Council may be convened	Monitoring Officer
89(1)(b)	The officer to whom notice in writing of a casual vacancy occurring in the office of Councilor may be given by two local government electors for the Borough	Monitoring Officer
96	The officer to whom general notices and recording of disclosures of interests under s.94 should be given	Monitoring Officer
99 & Sch.12	To give notice and send summonses in respect of any Council meeting	Monitoring Officer
100	To give public notice of any meeting to which the public are entitled to attend, provide copies of agenda and facilities for the press	Monitoring Officer
100B(2)	The officer to exclude from committees, sub committees, Council or Executive meeting agendas any information to be dealt with in a meeting from which the public are likely to be excluded	Monitoring Officer
100B(7)(c)	The officer to supply to any newspaper copies of documents supplied to Members of	Monitoring Officer

	committees, sub-committees, Council or Executive meetings in connection with an item for consideration	
100C(2)	The officer to prepare a written summary of proceedings of committees, subcommittees, Council or the Executive from which the public were excluded	Monitoring Officer
100D(1)(a)	The officer to prepare a list of background papers for reports considered by committees, sub-committees, Council or the Executive	Monitoring Officer
100D(5)	The Officer to determine which documents constitute background papers and s.100H - ability to charge for the provision of such documents	Monitoring Officer
100F(2)	The officer to decide which documents are not, by virtue of containing exempt information, required to be open to inspection	Monitoring Officer
100G	To maintain a register of the names and addresses of Members and membership of committees, lists of delegations and the like	Monitoring Officer
115(2)	Person to whom all officers shall pay monies received by them and due to Council	Monitoring Officer
123	The officer responsible for certifying or obtaining a certificate of 'Best Consideration' on the disposal of land and property.	Director of Corporate Governance, Property and Procurement
137(a)	Gives the Proper Officer power to require a voluntary organisation or similar body to supply information to them, where a local authority uses its powers under Section 137 to give financial assistance to that voluntary organisation or similar body above a relevant minimum	Director of Finance

146(1)(a)	Statutory declarations and issue any certificate in relation to securities on change of name of authority or change of area	Monitoring Officer
151	To be responsible for the administration of the financial affairs of the Council	Director of Finance
All appointments 191, 204(3), 210(6) and (7), 223, 225(1), 228(3), 229(5), 233, 234, 236(9)-(10), 238, 248(2), Sch.12 para 4(2)(b) and 4(3) and Sch.14 Para 25(7)	Receipt of notices from Ordnance Survey in relation to boundaries, powers in respect of charities, authorising officers to attend court, receipt of documents to be deposited, certification of photographic copies, receipt of service, signing of notice order or other document required by law, certifying copies of byelaws and keeping the roll of freemen. Provisions in relation to summons for meetings and copy resolutions	Monitoring Officer
Sch.29 Pt.I Para.4(1)(b)	Adaptation, modification and amendment of enactments	Monitoring Officer
Sch.29 Para 41	Proper Officer for Births, Marriages and Deaths	Director of Digital and Physical Infrastructure & Customer Services
BREEDING OF DOGS ACT 1973		
Section	Brief Details of Responsibility	Proper Officer
2	Authorised officer to inspect premises in relation to licenses issued under the Act	Director of Communities
CONTROL OF POLLUTION ACT 1974		

91	Authorised person to enter land or vessels in relation to the performance of functions under the Act	Director of Communities
LOCAL GOVERNMENT ACT 1974		
Section	Brief Details of Responsibility	Proper Officer
30(5)	Provides that the Proper Officer must give public notice of the ombudsman's reports	Monitoring Officer
LOCAL LAND CHARGES ACT 1975		
Section	Brief Details of Responsibility	Proper Officer
3	Requires each registering authority to maintain a local land charges register. This duty falls on the local authority itself and not on the "Proper Officer"	Strategic Director for Place
19	The officer to act as Local Registrar as defined in Section 3	Strategic Director for Place
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976		
Section	Brief Details of Responsibility	Proper Officer
16	Notices requiring details of interest in land	Any Chief Officer or Deputy Chief Officer of the Council
41(1)	The officer to certify copies of any resolution, order, report or minutes of proceedings of the Authority as evidence in any legal proceedings	Monitoring Officer
LOCAL AUTHORITIES' CEMETERIES ORDER 1977		

Regulation	Brief Details of Responsibility	Proper Officer
10	To sign exclusive rights of burial	Director of Communities
RENT ACT 1977		
Section	Brief Details of Responsibility	Proper Officer
63	Appointment of rent officers under a scheme	Strategic Director of Place
Schedule 15, Part IV, para 7	Certification of provision of suitable alternative accommodation	Strategic Director of Place
REFUSE DISPOSAL (AMENITY) ACT 1978		
Section	Brief Details of Responsibility	Proper Officer
8	Authorised person to enter land in relation to the exercise of functions under the Act	Director of Communities
HIGHWAYS ACT 1980		
Section	Brief Details of Responsibility	Proper Officer
37(5)	Receipt of certificates approving dedication of highways to be maintainable at public expense and making certificates available for inspection	Director of City Sustainability
59(1)	Certify that extraordinary expenses have been incurred in maintaining the highway by reason of damage caused by excessive weight	Director of City Sustainability

193(1)	Certify that additional expenses have been incurred in the execution of wider than normal street works	Director of City Sustainability
205(3)-(5)	Undertake duties as specified in the schedules in relation to private street works	Director of City Sustainability
210(2)	Certify amendments to estimated costs and provisional apportionment of costs under the private street works code	Director of City Sustainability
211(1), 212(4), 216(2)-(3)	Make final apportionment of costs as detailed in the schedules under the private street works code	Director of City Sustainability
295(1)	Issue notice requiring removal of materials from non - maintainable streets in which works are due to take place	Director of City Sustainability
321	Authenticate notices and other documents	Director of City Sustainability
Sch.9 Para 4	Sign plans showing proposed prescribed improvement or building lines	Director of City Sustainability
ZOO LICENSING ACT 1981		
Section	Brief Details of Responsibility	Officer
10(4)	Zoo inspectors appointed in relation to licences issued under the Act	Director of Communities
REPRESENTATION OF THE PEOPLE ACT 1983		
Section	Brief Details of Responsibility	Proper Officer
8(1) and (2)(a)	Appointment as Electoral Registration Officer	Director of Corporate Governance,

		Property and Procurement
18	Division of the area into polling districts and keeping the districts under review	Director of Corporate Governance, Property and Procurement
28	Acting Returning Officer at an election of a Member of Parliament	Director of Corporate Governance, Property and Procurement
35(1)	Appointment as Returning Officer	Director of Corporate Governance, Property and Procurement
67(7)(b)	Receipt of notice of an election agent for local elections	Director of Corporate Governance, Property and Procurement
82 and 89	Receipt of election expense declarations and returns and the holding of those documents for public inspection	Director of Corporate Governance, Property and Procurement
128	Provides that a copy of any petition questioning a local government election shall be sent to proper officer who shall publish it in the local authority area	Director of Corporate Governance, Property and Procurement
131	Providing accommodation for holding election count	Director of Corporate Governance, Property and Procurement
BUILDING ACT 1984		
Section	Brief Details of Responsibility	Proper Officer

61	Provides that the proper officer or any other authorised officer to be given free access to works or repairs to an underground drain	Director of Communities
78	To take action in relation to dangerous buildings and structures	Director of Communities
93	Provides that notices and other documents under this Act may be signed by the Proper Officer or by an officer authorised by them in writing	Director of Communities
PUBLIC HEALTH (CONTROL OF DISEASES) ACT 1984 (AS AMENDED BY THE HEALTH AND SOCIAL CARE ACT 2008 AND THE MILK AND DAIRIES (GENERAL) REGULATIONS 1959)		
Section	Brief Details of Responsibility	Proper Officer
48	Preparation of certificate to Justice of Peace for removal of body to mortuary and for burial within a prescribed time or immediately	Director of Public Health
59	Authentication of documents	Director of Public Health
61-62	Right to enter premises to ascertain whether there has been a contravention of a provision of the 1984 Act or a Part 2A order made pursuant to the 1984 Act	Director of Public Health
	Requirement to appoint a suitably qualified person as the Council's Medical Advisor on Environmental Health and Proper Officer for notifiable diseases	Director of Public Health
74	To act for such of the functions relating to notification, investigations, prevention and control of notifiable diseases and food poisoning.	Director of Public Health
WEIGHTS AND MEASURES ACT 1985		

Section	Brief Details of Responsibility	Proper Officer
72(1)(a)	Chief Inspector of Weights and Measures	Director of Communities
LOCAL GOVERNMENT FINANCE ACT 1988		
Section	Brief Details of Responsibility	Proper Officer
114, 115, and 115A and 115B	Responsibility for Chief Financial Officer Reports	Director of Finance
116	Notification to auditor of date, time and place of meeting to consider Section 114 report and of decision of such meeting	Director of Finance
139A	Provision of information to the Secretary of State in relation to the exercise of their powers under this Act as and when required	Director of Finance
Sch.4 (10)(1) Paragraphs 6 – 8 (10)(1) Paragraph 9	Where notice has to be served on the Council concerning: <ul style="list-style-type: none"> The acquisition of way leaves over Council-owned land The felling and lopping of trees, etc 	Director of Communities
Sch. 8, 36(8) Para 1, 36(8) Para 2	Where applications have to be made for consent to construct generating stations on Council-owned land; and where applications for consent have to be served on the local planning authority	Director of Communities
PUBLIC HEALTH (INFECTIOUS DISEASES) REGULATIONS 1988		
Regulation	Brief Details of Responsibility	Proper Officer

6	Reporting of infectious diseases to the Chief Medical Officer	Director of Public Health
8	Submission of weekly or quarterly returns to the Registrar General	Director of Public Health
10	Arrangements for immunisation and vaccination	Director of Public Health
Sch.3 and 4	Reporting and issuing notices to prevent the spread of infection	Director of Public Health
ROAD TRAFFIC ACT 1988		
Regulation	Brief Details of Responsibility	Proper Officer
	Holder of the Council's Vehicle Operations Licence	Director of Communities
CONTROL OF POLLUTION (AMENDMENT) ACT 1989		
Regulation	Brief Details of Responsibility	Proper Officer
5a	Authorised officer to seize a vehicle or its contents in relation to the performance of functions under the Act	Director of Communities
LOCAL GOVERNMENT AND HOUSING ACT 1989		
Section	Brief Details of Responsibility	Proper Officer
2(4), 3A, 15-17	Officer with whom the list of politically restricted posts shall be deposited; to grant exemptions from political restriction and matters relating to the establishment of political groups. Any responsibilities under the Local Government (committees and Political Groups) Regulations 1990	Monitoring Officer

4	Designation as Head of Paid Service	Chief Executive
5(1)	Designation as Monitoring Officer	Director of Corporate Governance, Property and Procurement
18	Receipt of notice in writing that a councillor wishes to forego any part of entitlement to an allowance	Monitoring Officer
ENVIRONMENTAL PROTECTION ACT 1990		
Regulation	Brief Details of Responsibility	Proper Officer
149	Discharging the functions in this section for dealing with stray dogs	Director of Communities
FOOD SAFETY ACT 1990		
Section	Brief Details of Responsibility	Proper Officer
5	Authorised officer to act in matters arising under the Act	Director of Communities
27(1)	Appointment of Public Analyst	Director of Communities
49(3)	Any document which a food authority are authorised or required by or under this Act to give, make or issue may be signed on behalf of the authority (a) by the proper officer of the authority as respects documents relating to matters within their province; or (b) by any officer of the authority authorised by them in writing to sign documents of the particular kind, or, as the case may be, the particular document	Director of Communities

THE LOCAL GOVERNMENT (COMMITTEES AND POLITICAL GROUPS) REGULATIONS 1990

Regulation	Brief Details of Responsibility	Proper Officer
8(1), 8(5), 9(b), 10, 13(1), 14, 15 and 17	<p>Notifications to and by the Proper Officer</p> <p>Give effect to the wishes of political groups in making appointments of members to committees</p>	Monitoring Officer

PLANNING (HAZARDOUS SUBSTANCES) ACT 1990

Section	Brief Details of Responsibility	Proper Officer
36	Authorised person to enter land in connection with hazardous substances	Director of City Sustainability

TOWN AND COUNTRY PLANNING ACT 1990

Section	Brief Details of Responsibility	Proper Officer
196A-B	Authorised person to enter and survey land in relation to development planning	Director of City Sustainability
324	Authorised person to enter land in relation to the exercise of planning powers	Director of City Sustainability

BREEDING OF DOGS ACT 1991

Section	Brief Details of Responsibility	Proper Officer
1	Authorised officer to inspect premises in relation to offences under the Act	Director of Communities

CIVIL EVIDENCE ACT 1995

Section	Brief Details of Responsibility	Proper Officer
9	To certify Council records for the purposes of admitting the document in evidence in civil proceedings	Monitoring Officer
ENVIRONMENT ACT 1995		
Regulation	Brief Details of Responsibility	Proper Officer
108	Authorised officer to inspect premises in relation to offences under the Act	Director of Communities
PARTY WALL ETC. ACT 1996		
Section	Brief Details of Responsibility	Proper Officer
10(8)	Appointing officer to select a third surveyor, if required, during a neighbour dispute about building projects	Director of Communities
LOCAL GOVERNMENT (CONTRACTS) ACT 1997		
Section	Brief Details of Responsibility	Proper Officer
	Certification of relevant powers to enter into contracts	Monitoring Officer
CRIME AND DISORDER ACT 1998		
Section	Brief Details of Responsibility	Proper Officer
12	To apply for the discharge or variation of a Child Safety Order	Director of Communities
17 and 37	To have regard to effect of the exercise of any function on the need to prevent crime	Director of Communities

	and disorder and offending by children and young persons	
CRIME AND DISORDER ACT 1998, SECTION 115		
CRIME AND DISORDER (FORMULATION AND IMPLEMENTATION OF STRATEGY) REGULATIONS 2007/1830		
Regulation	Brief Details of Responsibility	Proper Officer
4(3)	Primary Designated Officer for information sharing	Director of Communities
DATA PROTECTION ACT 1998		
Section	Brief Details of Responsibility	Proper Officer
20	Duty to notify the Information Commission of any changes	Monitoring Officer
POLLUTION PREVENTION AND CONTROL ACT 1999		
Section	Brief Details of Responsibility	Proper Officer
Sch.1 Para 14(2)	Appointed person to exercise regulatory functions and powers under the Act	Director of Communities
LOCAL GOVERNMENT ACT 2000		
Section	Brief Details of Responsibility	Proper Officer
3	Producing a written statement of Executive decisions made at meetings	Monitoring Officer
5	Making a copy of written statements of Executive decisions and associated reports available for inspection by the public	Monitoring Officer

6	Making available for inspection a list of background papers	Monitoring Officer
11(2)	Exclusion of whole or part of any report to the Cabinet where meeting is likely not to be open to the public	Monitoring Officer
11(7)(c)	Provision to the press of other documents supplied to members of the Cabinet in connection with the item discussed	Monitoring Officer
81	Establish and maintain a Register of Interests	Monitoring Officer

LOCAL GOVERNMENT ACT 2000 SECTIONS 9G, 9GA AND 22

LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012

Regulation	Brief Details of Responsibility	Proper Officer
7	Exclusion of whole or part of any reports to the Cabinet or Cabinet Member where they relate only to items during which the meeting is likely not to be open to the public	Monitoring Officer
10	Inform the relevant Select Committee Chair or the committee members by notice in writing of decisions to be made, where it has been impracticable to comply with the publicity requirements (in the "Key Decisions Plan") and make available for public inspection notices relating to this	Monitoring Officer
12	Produce a written statement of Cabinet decisions made at meetings	Monitoring Officer
13	Produce a written statement of decisions made by individual Cabinet Members	Monitoring Officer
14	Make a copy of written statements of Cabinet and Cabinet Member and officer Executive	Monitoring Officer

	decisions and associated reports available for inspection by the public	
15 and 2	Make available for inspection a list of back-ground papers	Monitoring Officer
16(5)	Determine whether certain documents contain exempt information	Monitoring Officer
16(7)	Determine whether certain documents contain advice provided by a political adviser or assistant	Monitoring Officer
20	Determine whether documents contain confidential information, exempt information or the advice of a political adviser or assistant	Monitoring Officer
LOCAL GOVERNMENT ACT 2000, s.34 LOCAL AUTHORITIES (REFERENDUMS) (PETITIONS AND DIRECTIONS) REGULATIONS 2011		
4-5	Publishing the verification number of local government electors for the purpose of petitions under the Local Government Act 2000	Monitoring Officer
REGULATION OF INVESTIGATORY POWERS ACT 2000 s.30 REGULATION OF INVESTIGATORY POWERS (PRESCRIPTION OF OFFICES, RANKS AND POSITION) ORDER 2000 REGULATION OF INVESTIGATORY POWERS (DIRECTED SURVEILLANCE AND COVERT HUMAN INTELLIGENCE SOURCES) ORDER 2010		
Regulation	Brief Details of Responsibility	Proper Officer
2	Authorise the carrying out of directed surveillance of the conduct of a covert human intelligence source	Director of Communities & Director for Adult Social Care Services

21, 22, 27, 28 and 29	The Senior Responsible Officer for RIPA	Monitoring Officer
REGULATION OF INVESTIGATORY POWERS ACT 2000, ss.22(2)(B) AND 25(2) THE REGULATION OF INVESTIGATORY POWERS (COMMUNICATIONS DATA) ORDER 2010 THE REGULATION OF INVESTIGATORY POWERS (COVERT SURVEILLANCE AND PROPERTY INTERFERENCE: CODE OF PRACTICE) ORDER 2010 THE REGULATION OF INVESTIGATORY POWERS (COVERT HUMAN INTELLIGENCE SOURCES: CODE OF PRACTICE) ORDER 2010		
Regulation	Brief Details of Responsibility	Proper Officer
-	Designated Senior Responsible Officer for the use of surveillance and the acquisition and disclosure of communications data	Monitoring Officer
Sch. 2 Part 2	Grant authorisation or give notice to obtain or disclose communications data for the purpose of preventing or detecting crime or of preventing disorder	Senior Corporate Fraud Officer Trading Standards Team Leader
FREEDOM OF INFORMATION ACT 2000		
Section	Brief Details of Responsibility	Proper Officer
36	Person to confirm or deny whether the disclosure of information is likely to prejudice the effective conduct of public affairs	Monitoring Officer
CRIMINAL JUSTICE AND POLICE ACT 2001		
Section	Brief Details of Responsibility	Proper Officer

	Delegated power to authorise officers to enter premises and seize items where the Council has a power of seizure under this Act and to perform other related duties (return and security of seized items)	Director of Communities
LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) REGULATIONS 2001		
Section	Brief Details of Responsibility	Proper Officer
Sch.1 Part II paras 5 and 6	Functions in relation to notifying Executive appointments, dismissals etc	Monitoring Officer
PROCEEDS OF CRIME ACT 2002		
MONEY LAUNDERING REGULATIONS 2003		
Regulation	Brief Details of Responsibility	Proper Officer
7(1)(a)	Nominated officer to receive disclosures of suspected money laundering	Director of Finance
LOCAL GOVERNMENT ACT 2003		
Section	Brief Details of Responsibility	Proper Officer
25	When the annual budget report is considered by Cabinet or by the Council, the Chief Financial Officer must make a report on the robustness of the estimates made in determining the budget requirement and on the adequacy of the proposed level of financial reserves	Director of Finance
CHILDREN ACT 2004		
Section	Brief Details of Responsibility	Proper Officer

18	To carry out the role of the proper officer function of Director of Children's Services	Strategic Director for People Services
THE HOUSING ACT 2004		
Section	Brief Details of Responsibility	Proper Officer
4(2) and 249	In relation to the inspection of premises and endorsing of a certificate of evidence.	Director of Communities
TRAFFIC MANAGEMENT ACT 2004		
Section	Brief Details of Responsibility	Proper Officer
17	Appointment as Traffic Manager to perform such tasks as the authority considers will assist it to perform its network management duty	Director of City Sustainability
CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005		
Section	Brief Details of Responsibility	Proper Officer
6-7	Authorised officer in relation to the issue of fixed penalty notices and the performance of functions under the Act	Director of Communities
MARRIAGES AND CIVIL PARTNERSHIPS (APPROVED PREMISES) REGULATIONS 2005 (AS AMENDED)		
Section	Brief Details of Responsibility	Proper Officer
	Proper Officer for the purposes of the Registration Act 1953, the Marriage Act 1949 (as amended by the Marriage Act 1994), the Civil Partnership Act 2004, the Marriages and Civil Partnerships (Approved Premises) Regula-	Director of Digital and Physical Infrastructure & Customer Services

	tions 2005 as amended and receive applications, set fees and offer discounts, where applicable	
NATIONAL HEALTH SERVICE ACT 2006		
Section	Brief Details of Responsibility	Proper Officer
73A	Appointment as Director of Public Health	Director of Public Health
HEALTH ACT 2006		
Section	Brief Details of Responsibility	Proper Officer
10(3)	Duty of an enforcement authority to enforce, as respects the premises, places and vehicles in relation to which it has enforcement functions, the provisions of this Chapter (smoke free premises) and regulations made under it	Director of Communities
10(5)	In this Chapter, “authorised officer”, in relation to an enforcement authority, means any person (whether or not an officer of the authority) who is authorised by it in writing, either generally or specially, to act in matters arising under this Chapter	Director of Communities
10(7)	Refers to Schedule 2 which lists the powers of entry, etc.	Director of Communities
10(9)(1)	An authorised officer of an enforcement authority (see section 10) who has reason to believe that a person has committed an offence under section 6(5) or 7(2) on premises, or in a place or vehicle, in relation to which the authorised officer has functions may give them a penalty notice in respect of the offence	Director of Communities
SMOKE-FREE (PREMISES AND ENFORCEMENT) REGULATIONS 2006		

Regulation	Brief Details of Responsibility	Proper Officer
3	To carry out the functions of an enforcement authority	Director of Communities
LOCAL ELECTIONS (PARISHES AND COMMUNITIES) RULES 2006		
	Brief Details of Responsibility	Proper Officer
	Retention and public inspection of documents after an election	Returning Officer
THE LOCAL ELECTIONS (PRINCIPAL AREAS) (ENGLAND AND WALES) RULES 2006		
Regulation	Brief Details of Responsibility	Proper Officer
Rule 50 and Sch.2	Receipt from Returning Officer of the names and persons elected to the Council	Monitoring Officer
54	Registration officer for the retention and destruction of documents following an election	Returning Officer
CRIME AND DISORDER (FORMULATION AND IMPLEMENTATION OF STRATEGY) REGULATIONS 2007/1830		
Regulation	Brief Details of Responsibility	Proper Officer
4(3)	Nominated officer to facilitate the sharing of information under an information sharing protocol	Director of Communities
WORKING TOGETHER TO SAFEGUARD CHILDREN: A GUIDE TO INTER-AGENCY WORKING TO SAFEGUARD AND PROMOTE THE WELFARE OF CHILDREN (DFE GUIDANCE, MARCH 2010)		

-	Local Authority Designated Officer (LADO)	Head of Children's Quality Assurance
-	Caldicott Guardian	Director of Adult Social Care Services
THE HEALTH PROTECTION (NOTIFICATION) REGULATIONS 2010		
Regulation	Brief Details of Responsibility	Proper Officer
2, 3 and 6	Receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons	Director of Public Health
LOCALISM ACT 2011		
Section	Brief Details of Responsibility	Proper Officer
29	Establish, maintain and publish a Register of Interests	Monitoring Officer
31	Receipt of notice of members' disclosable pecuniary interests and entering such interests in the authority's register	Monitoring Officer
32	Consideration of whether a member's interest is a sensitive interest	Monitoring Officer
33(1)	Receiving applications for dispensations	Monitoring Officer
33(2)	Grant dispensations to members to speak only or to speak and vote on matters where they have a Disclosable Pecuniary Interest	Monitoring Officer
Sch.2, Pt1, Para.9FB	Designation as Scrutiny Officer	Head of Democracy

THE LOCAL AUTHORITIES (REFERENDUMS) (PETITIONS) REGULATIONS 2011

Regulation	Brief Details of Responsibility	Proper Officer
7, 8, 11 and 13	Various steps relating to petitions	Monitoring Officer

THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012

Regulation	Brief Details of Responsibility	Proper Officer
2, 7, 10, 12, 13-16, 20	Functions relating to the recording and publication of information relating to Executive decisions, including exclusion of information from agenda and reports relating to private meeting matters	Monitoring Officer
12-13	Grant dispensations in respect of conflicts of interest declared by an Executive member making a decision, or declared by an Executive member consulted by a member or officer taking such a decision	Monitoring Officer
12-14	Recording of Executive decisions and by individual members and making documents available for inspection by members of the public	Monitoring Officer

NHS BODIES AND LOCAL AUTHORITIES (PARTNERSHIP ARRANGEMENTS, CARE TRUSTS, PUBLIC HEALTH AND LOCAL HEALTHWATCH) REGULATIONS 2012

Regulation	Brief Details of Responsibility	Proper Officer
22(4)	Designated as Responsible Person for ensuring compliance with the regulations	Director of Public Health

22(5)	Designated as Complaints Manager for managing the procedures for handling complaints	Director of Public Health
HEALTH AND SOCIAL CARE ACT 2012		
Section	Brief Details of Responsibility	Proper Officer
32	Responsible person for ensuring that the Council complies with statutory requirements relating to complaints made to the Council about its public health functions and, where necessary, action is taken in light of the outcome of such complaints	Director of Public Health
73A(1)(a)	The exercise by the authority of its functions under ss.2B, 111 or 249 or Sch.1 – health improvement duties to take steps to improve the health of the people in the area	Director of Public Health
73A(1)(b)	The exercise by the authority of its functions by virtue of section 6C(1) or (3) – The exercise of the Secretary of State's public health protection or health improvement functions that they delegate to local authorities, either by arrangement or under regulations – these include services mandated by regulations	Director of Public Health
73A(1)(c)	Anything done by the authority in pursuance or arrangements under section 7A – Any public health activity undertaken by the local authority under arrangements with the Secretary of State	Director of Public Health
73A(1)(d)	The exercise by the authority of any of its functions that relate to planning for, or responding to, emergencies involving a risk to public health	Director of Public Health
73A(1)(e)	The functions of the authority under section 325 of the Criminal Justice Act 2003 - the local authority's role in co-ordinating with the police, the probation service and the prison	Director of Public Health

	service to assess the risks posed by violent and sex offenders	
73A(1)(f)	Other public health functions that the Secretary of State may specify in regulations	Director of Public Health
ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014		
ANTI-SOCIAL BEHAVIOUR (AUTHORISED PERSONS) ORDER 2015		
Section	Brief Details of Responsibility	Proper Officer
53	Designated housing provider authorised to issue community protection or fixed penalty notices	Director of Communities
COUNTER-TERRORISM AND SECURITY ACT 2015		
Section	Brief Details of Responsibility	Proper Officer
26	The officer responsible for ensuring that the Council, in the exercise of its functions, have due regard to the need to prevent people vulnerable from being drawn into terrorism	Director of Communities
ENVIRONMENTAL DAMAGE (PREVENTION AND REMEDIATION) REGULATIONS 2015		
Regulation	Brief Details of Responsibility	Proper Officer
31	Authorised person for the enforcement of the regulations	Director of Communities
DATA PROTECTION ACT 2018		
Section	Brief Details of Responsibility	Proper Officer

69, 70 and 71	The designated Data Protection Officer to discharge functions associated with the Data Protection Act 2018	Information Governance Manager
LANDLORD AND TENANT ACTS		
	Brief Details of Responsibility	Proper Officer
	To be the Proper Officer to serve and receive notices on behalf of the Council for the purposes of s.23 of the Landlord and Tenant Act 1927 and s.66 of the Landlord and Tenant Act 1954	Monitoring Officer
OTHER MISCELLANEOUS PROPER OFFICER FUNCTIONS		
Section	Brief Details of Responsibility	Proper Officer
	Any other miscellaneous proper or statutory officer functions not otherwise delegated by the Authority	Chief Executive or their nominee

IN THE ABSENCE OF THE DESIGNATED PROPER OFFICER:

- In the event of the Chief Executive not being available to deal with matters for which they have been designated the proper officer, the Deputy Chief Executive may be authorised by them to act as proper officer in their absence.
- In the event of any other designated officer being unable to fulfil their duties as proper officer, their deputy may be authorised to undertake such duties.
- Notwithstanding the above, a proper officer may at any time delegate or authorise other officers to perform the designated duties on their behalf.

Employee Code of Conduct

1. Policy application

This policy applies to all Council employees except those employed under the delegated powers of Governing bodies of Community, Voluntary Controlled schools and Trust schools.

This code should be read in conjunction with the disciplinary rules contained within the disciplinary and dismissals policy.

This code also incorporates the Council's Ethics Statement, which is attached at Appendix 1. The purpose of the Ethics Statement is to provide guidance for Council employees on the ethical framework within which the Council seeks to conduct its activities.

Any breach of this code will be regarded as misconduct, leading to disciplinary action up to and including dismissal. Nothing in this code overrides existing statutory or common law obligations.

2. Principles

2.1 General standards

The public is entitled to expect the highest standards of conduct from all employees who work in local government. The role of local government employees is to support the Council in achieving its objectives, implementing policies and delivering services to the local community.

This code describes minimum expected standards that protect the integrity of both employees and the Council; however, having a values-led approach is vital to the Council's success. The Values help us to maintain and improve how we work with each other, our partners and customers. You are expected to demonstrate behaviours that reflect these values whilst performing your duties.

The values of Derby City Council are:

We are Bold - We have the courage to speak up, challenge current systems and practices, and feel empowered to make appropriate and measured risks.

We are Strong – We excel using our strengths and have the confidence to ask for help and support when we need to.

We Care – Caring is what motivates us. We care about what we can achieve for Derby.

We are One Team – We are great people working as one team: we get the best out of each other and together achieve great things for Derby.

The Council also has guidance on workplace behaviors that underpin the Council's values called [Derby Workstyle](#) which employees are expected to follow.

2.2 Acceptance of gifts/hospitality

The Council is committed to conducting its services fairly, honestly, openly and adhering to the [Anti-bribery Policy](#). You must not compromise your position by appearing to accept, or accepting gifts/hospitality which might be considered by others to have influenced you when making decisions on behalf of the Council.

You must secure approval from your line manager before accepting any gift or hospitality. All offers of gifts/hospitality over the value of £25 must be recorded. If you do not know the value or are unsure, record it.

In general, you are expected to refuse gifts and hospitality offered to you or members of your family by any person or body that has, or seeks to have dealings of any kind with the Council. Cash or monetary equivalents offered must always be refused, regardless of the value. There may be occasions where it could cause offence to refuse hospitality/gifts.

However, no gift/hospitality that could look as though you have been dishonest or corrupt should be accepted.

See [Acceptance of gifts, hospitality and sponsorship](#) for information.

2.3 Additional employment

Employees may carry out additional work, employment or outside activity if it is not in conflict with the Council's business.

The Chief Executive and Chief Officers must seek express consent from full Council to take up additional employment in line with their terms and conditions.

You must disclose and seek approval from your line manager who will determine if there is likely to be a conflict of interest. Your manager will also assess hours worked in line with the Working Time Regulations 1998 and discuss this with you.

You must not do personal work of any sort during the hours you are carrying out your work for the Council or use the Council's facilities in connection with additional employment.

If you are considering establishing a business, social enterprise or micro provider organisation you should also read, and act upon the framework "[Implications of the Localism Act and social enterprises](#)".

Details of the [declaration process](#) and further guidance are available from your line manager.

2.4 Consumption of alcohol

You must not drink alcohol during the working day at all; including unpaid breaks. You must also make sure that you are fit for duty if on call or about to start work. You must be mindful of the effect your behaviour will have on the reputation of the Council.

Disciplinary action will be taken against you if your ability is impaired by alcohol whilst on

duty.

2.5 Illegal substances and medication

It is a criminal offence to produce, possess or supply an illegal substance. You must not use, or be under the influence of an illegal substance during the working day at all; including unpaid breaks.

You have a duty to inform your line manager if you are taking any medication which interferes with the safe performance of your role. You also have a duty to inform your doctor, if you drive or work with dangerous machinery, when they are prescribing medication. You should also refrain from over medicating while at work or if you are about to start work, with either prescribed or over the counter medicines by exceeding the recommended dosage.

You must be mindful of the effect your behaviour will have on the reputation of the Council and the impact illegal substances, or the misuse of legal drugs will have on your ability to perform your duties. Disciplinary action will be taken against you if your ability is impaired by illegal substances or the misuse of legal drugs while on duty.

2.6 Conflict/disclosure of personal interests

Employees must not allow personal interests to conflict with the Council's business. This means you must not use your Council position, facilities or equipment to benefit yourself, family, friends or a private company/interest.

You must register any interest you/your spouse/partner has which may conflict with the Council's interest. This includes any employment by, substantial shareholding in or membership of any external company or body which has, or may enter into a contractual relationship with the Council or which is involved in campaigning or lobbying in respect of any Council activity.

The same principles apply to work carried out through partnership arrangements. So if you are involved in any type of partnership working with other agencies/companies and there appears to be a potential conflict of interest, you must also register this as described above.

Disclosure must be made as soon as it becomes evident there is or may be a conflict of interest. It may come to light in processes such as recruitment, tendering or during committee meetings. It must be declared immediately if you, a relative or friend has, or could be perceived as having, a personal interest in the process. Arrangements should be made to protect both the Council and the employee's position.

You must also declare membership of any organisation not open to the public, which requires allegiance and which has secrecy about rules, membership or conduct.

If you are considering establishing a business, social enterprise or micro provider organisation you should also read, and act upon the framework "[Implications of the Localism Act and social enterprises](#)".

Details of the [declaration process](#) and further guidance are available from your line manager.

2.7 Sponsorship

When an outside organisation wishes to sponsor a Council activity or an individual employee, the rules as described in section 2.2 about accepting gifts and hospitality apply.

When the Council wishes to sponsor an event/organisation/individual, you must follow the rules for declaring a conflict of interest in section 2.6 if you may benefit, or it could be perceived you may benefit, from the arrangement.

2.8 Criminal charges

Any employee facing criminal charges must notify their line manager immediately, who will consider the impact on their contract of employment. Motoring convictions should be declared in line with the Driving at Work Policy.

2.9 Disclosure of information

All employees, permanent or temporary, of the Council, and any volunteer working for the Council with access to information, has an absolute duty to respect the confidentiality, integrity and availability of information they have access to in the course of their duties. This duty includes the legal obligations to comply with:

- Data Protection Act 2018
- Freedom of Information Act 2000 & Environmental Impact Regulations 2004
- Common law duty of confidentiality, **“The duty of confidentiality: Not to share information without the permission of the confider unless to prevent serious harm or is strongly in the public interest or unless the law states that you must”**.
- Adhering to statutory guidance from the Information Commissioner’s Office and the Caldicott Principles.

All employees also have a duty of privacy and trust to all our customers and data subjects.

Completion of the Council’s Information Governance training courses is mandatory and failure to complete this as part of employee induction and/or refresher training may mean that you are unable to access the information required to fulfil your job. The level of training will vary between jobs depending on the access to information the job involves but a minimum level will apply to all employees. If in doubt ask your line manager or contact the Information Governance team.

Failure to comply with information governance rules can result in civil or criminal action against the individual employee and the Council. Such action is more likely if acts were deliberate or negligent in the way information was stored, processed or disclosed.

The sharing of data with other organisations must be compliant with the Data Protection Act, national standards and local data sharing agreements. Before any data is shared we should seek the explicit consent of the data subjects unless to seek their consent could impede the detection or prevention of a crime or lead to increased risk to the safety of the data subject or of other persons. There is also a duty to share data with others where to fail to share the data could increase the risk of harm to the data subject or to other parties. Further advice and guidance on Data Protection and Data Sharing is available from the Information Governance team.

Deliberate disclosure of confidential/personal information may be considered as gross Misconduct.

2.10 Dress

The Council does not have a formal dress code. Employees who are required to wear a uniform or protective clothing to perform their duties will be provided with what is required and must wear this as instructed.

Cultural dress is encouraged providing it does not become a health and safety risk within the working environment.

You should be mindful that the way you present yourself may reflect upon the Council's reputation. You must dress in a manner that is appropriate for the situation in which you are working and which does not offend colleagues, customers or service users.

2.11 Inventions, patents and copyright

Any inventions made before the Patents Act 1977 belong to the Council if they were made during the course of your employment. However, after 1 June 1978, inventions will only belong to the Council if:

- they have been made in the course of your normal duties
- you would be expected to be inventive as part of your duties
- they were made in the course of your duties and you had a special obligation to further the Council's interest.

Any material that is related to work belongs to the Council under the Copyright, Designs and Patents Act 1988. This means you cannot claim ownership of any material, written or produced by yourself or others during the course of your employment. You must not use any Council material for your own or a third party's gain.

2.12 Legacies/bequests in a will

Employees must never provide assistance to customers when drafting a will or act as a witness. Great care must be taken to ensure you are never placed in a position where it may appear that you are influencing or advising a customer about the content of their will. Any gifts or monies left to you in a will must be declared using

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the acceptance of hospitality/gifts process described in section 2.2.

2.13 Off duty hours

Employees must not undermine public confidence in the Council in any way. This means your behaviour, both in and out of work, must not jeopardise your employment, undermine the trust placed in you as a Council employee or bring the Council into disrepute. Although you're off duty hours are your personal concern, you must not allow official and private interests to conflict.

2.14 Personal use of Council equipment

The Council provides work equipment for employees to use to carry out their duties. If you wish to use such equipment for personal use, you must adhere to the policies that apply. For example, mobile phones, email and internet use.

2.15 Political neutrality

As a council employee, you service the Council as a whole. You must serve all councillors not just the controlling group and make sure you respect their individual rights. You must not allow your personal or political opinions to interfere with your work or your behaviour as a Council employee.

You will not normally be asked to advise any of the political groups represented on the Council about their, or the Council's work, or be required to attend political group meetings. However, in exceptional cases identified by the Chief Executive, senior officers may be asked to attend and advise political group meetings.

The Council is required by the Local Government and Housing Act 1989 to maintain a list of politically restricted posts. If you are employed in a restricted post, it prevents you from having any active political role either in or outside the workplace. It means you are disqualified from being elected or holding office as a member of this Council. You are also disqualified from standing or holding office with this Council if you hold any paid office or employment with a local or joint authority on which this Council is represented.

In practical terms, this means you cannot stand as a local councillor or an MP. You are also restricted from:

- Canvassing on behalf of a political party or a person who is or seeks to be a candidate.
- Speaking to the public at large or publishing any written or artistic work that could give the impression that you are advocating support for a political party.

You will have been informed if your post is politically restricted and whether there is a right of appeal. Further information about [politically restricted posts](#) is available on the intranet or you can speak to your line manager.

2.16 Professional qualifications

Employees in roles that require specific professional registration to be able to practice their profession must maintain this requirement. You must also comply with the professional standards, codes of practice and any continuing professional development requirements.

2.17 Relationships at work

Councillors

Mutual respect between employees and councillors is essential. Close personal relationships between employees and individual councillors can damage this respect. Officers whose duties require them to have contact with Elected Members must familiarise themselves with and follow the Protocol on Member/Officer Relations a copy of which can be found in Part 8 of the Council's Constitution.

Employees

The Council has a statutory obligation to protect employees from harassment on the grounds of gender, race, disability, sexuality, religion or belief and age. You are expected to show courtesy and respect to fellow employees and maintain a professional attitude to others in the performance of your duties.

Customers

Employees in close contact with vulnerable customers must maintain professional relationships at all times. Appropriate boundaries should be made clear from the outset whilst being sensitive to the service user's personal history and how that might affect the relationship. Employees must not have any kind of physical or sexual relationship with customers.

Close personal relationships

During recruitment, candidates are required to declare any personal relationships they have with councillors or employees. Existing employees must not be involved in recruitment or other management processes involving a friend/relative, or someone they have a close personal relationship with. You must inform your line manager immediately if you identify an applicant that you have, or could be seen to have, a close personal relationship with.

Alternative management arrangements will be put in place, where possible, if a candidate is appointed who should be managed by, or will manage, a relative or someone with a close personal relationship.

Close relationships that develop during the course of employment between employees and or Councillors must be declared by both parties. Alternative working arrangements will be put in place to ensure compliance with this code. Further information and [how to register a relationship](#) is available on the intranet.

2.18 Social Media

There is growing popularity and use of social media websites like blogs, Facebook and Twitter. These are useful tools for communicating and engaging with the public, and are already used by some employees for this purpose. Employees must make sure that their use of, and participation in, social media websites does not bring the Council into disrepute, or breach their obligations under relevant legislation or Council policies.

You should ensure that you follow the [Social Media Policy](#), which governs the use of social media websites by Council employees. You should also follow the Council's Network, Email and Internet User policy, which contains detailed provisions on the use of the Council's information systems and IT facilities for both Council related activities and personal use. These policies are intended to set the standards of behaviour expected from employees in relation to their use of social media websites.

2.19 Whistleblowing

If you become aware of activities which you believe are illegal, improper, unethical or otherwise inconsistent with this code, you can obtain a copy of the [Council's Whistleblowing Policy](#), ask your line manager or contact Human Resources.

3. Support and guidance

Further guidance, supportive information and documentation on employee code of conduct are available on the intranet or can be obtained from your manager.

Staff Employment Procedure Rules

Definitions

In these Rules:

“The 1989 Act” means the Local Government and Housing Act 1989; “the 2000 Act” means the Local Government Act 2000;

“The 2001 Regulations” means the Local Authorities (Standing Orders) Regulations 2001;

“The 2015 Regulations” means the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015;

“Head of Paid Service”, “Chief Finance Officer”, “Monitoring Officer” and “disciplinary action” have the same meanings as set out in regulation 2 of the 2001 Regulations;

“Member of staff” means a person appointed to or holding paid office or employment to the Council;

“Independent Person” means a person appointed by the Council under section 28(7) of the Localism Act 2011 or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate;

“Independent Persons Panel” means a committee appointed by the Council under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers in accordance with Schedule 3 of the 2001 Regulations, including or comprising at least two Independent Persons who have accepted an invitation to be considered for appointment to the Panel and who have been appointed to it in accordance with the following priority order:

- (a) An independent person who has been appointed by the Council and who is a local government elector in the Council’s area;
- (b) Any other independent person who has been appointed by the Council;
- (c) An independent person who has been appointed by another council or councils.

“Statutory Chief Officer” has the same meaning as set out in section 2(6) of the 1989 Act and for this council will be:

- (a) Head of Paid Service (Chief Executive)
- (b) Chief Finance Officer (Director of Finance)
- (c) Monitoring Officer (Director of Legal, Procurement & Democratic Services)

(d) Strategic Director of People Services, which includes the statutory roles of Director of Adult Services and Director of Children's Services

(e) Director of Public Health

With the exception of the above, "Non-Statutory Chief Officer" means a person who reports or who is directly accountable to the Head of Paid Service, to the Council, or any committee or sub-committee of the Council as set out in section 2(7) of the 1989 Act (other than persons whose duties are solely secretarial or clerical or are otherwise in the nature of support services) and for this council will be any other Strategic Directors who are not Statutory Chief Officers;

"Deputy Chief Officer" are people who report directly or are directly accountable to one or more of the Statutory or Non-Statutory Chief Officers (other than persons whose duties are solely secretarial or clerical or are otherwise in the nature of support services) as set out in section 2(8) of the 1989 Act, and for this council will be its Service Directors. Unless acting in their capacity as a Deputy Statutory Chief Officer, Heads of Service are not considered to be Deputy Chief Officers.

1. Responsibility for Appointing, Dismissing and Disciplining Employees

1.1 Staff are employed, appointed, designated or engaged on behalf of the whole council and not by parts of the organisation or individuals.

1.2 The employment, appointment, designation or engagement of all staff will be in compliance with the law and any policies and practices of the Council.

1.3 The appointment or dismissal of the Head of Paid Service (Chief Executive), the Chief Finance Officer (Director of Finance) and the Monitoring Officer (Director of Legal, Procurement & Democratic Services) may only be made by a meeting of the Full Council, which must be in accordance with the procedures detailed within this Constitution.

1.4 The Investigating and Disciplinary Committee (IDC) is responsible for the dismissal of Chief Officers apart from the Chief Executive, the Director of Finance and the Director of Corporate Governance, Property and Procurement and for this purpose the IDC must include at least one Cabinet member.

1.5 The Chief Executive or by an officer nominated by them is responsible for all appointments and dismissals in respect of staff positions that are not Chief Officers or Deputy Chief Officers.

1.6 The procedures for such appointments and dismissals are set out in these Rules. It should be noted that the designation of statutory officers such as the Chief Finance Officer and the Monitoring Officer must be authorised by full Council before the offer of employment is made.

1.7 The IDC is responsible for the function of taking disciplinary action other than dismissal in respect of Statutory and Non-Statutory Chief Officers.

- 1.8 With regard to recruitment, the Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are a close relation of an existing councillor or officer of the Council, or the partner of such persons.⁸² A candidate who deliberately fails to disclose such a relationship shall be disqualified from appointment and if appointed shall be liable to dismissal.
- 1.9 The Director of Corporate Management shall ensure that the provisions contained in Clause 1.8 are reflected in application forms or in any accompanying detailed procedures for any post advertised.
- 1.10 No candidate so related to a councillor or a senior officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by the Chief Officer.
- 1.11 The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- 1.12 No Councillor will seek support for any person for any appointment with the Council.
- 1.13 The suspension of any Statutory or Non-Statutory Chief Officer will be undertaken in accordance with the relevant disciplinary procedures.

2. Appointment of the Head of Paid Service

- 2.1 Where the Council proposes to appoint the Head of Paid Service, the Employment and Personnel Committee will oversee the arrangements for filling the vacancy.
- 2.2 In consultation with the Chair of the Employment and Personnel Committee, the Director of Corporate Management will:
- (a) draw up a statement specifying the duties and salary of the post of the Head of Paid Service and any qualifications or qualities to be sought in the person to be appointed;
 - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
 - (c) make arrangements for a copy of the statement mentioned above to be sent to any person on request;
 - (d) select from the applications a short list of qualified candidates and interview those included in the short list;

⁸² For the purposes of this Constitution a close relation is defined as the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew, niece of the candidate.

- (e) Arrange for the establishment of an Appointments Panel-Sub Committee to carry out the interview process of suitable candidates.
- 2.3 Following the interview of candidates, the Appointments Panel Sub-Committee will come to a view as to the most suitable person for the position.
- 2.4 The committee must advise the Director of Corporate Management of:
- (a) the name of the person in question:
 - (b) any other particulars that the committee consider are relevant to the appointment.
- 2.5 Within five clear working days of receiving the notification in 2.4 above, the Director of Corporate Management will notify each Cabinet member of:
- (a) the information notified in paragraph 2.4 above;
 - (b) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Director of Corporate Management; such period shall not exceed five clear working days.
- 2.6 An offer of appointment must wait until:
- (a) the Leader has, within the period of the notice under paragraph 2.5 above, notified the committee through the Director of Corporate Management that neither they nor any Cabinet member has any objection to the making of the offer;
 - (b) the Director of Corporate Management has notified the committee that no objections have been received by them within the period of notice under 2.5 above;
 - (c) the committee is satisfied that any objection received from the Leader within the notice period is not well founded. In this regard, where necessary the advice of the Director of Corporate Governance, Property and Procurement (or if appropriate an alternative legal adviser) should be sought.
- 2.7 Where following the above procedure there are no objections to the proposed appointment or any objections are not upheld, the committee will recommend that person for appointment at the next meeting of the Full Council or at a specially convened meeting of the Council. If Full Council approves the recommendation, then a formal appointment can be made.
- 2.8 Where following interviews the sub-committee is of the view that there is no suitable candidate, it will re-advertise the post.
- 2.9 Where Full Council does not approve the recommendation of the committee, it shall indicate how it wishes to proceed.

3. Appointment of Chief Officers (Statutory or Non-Statutory) and Deputy Chief Officers

3.1 Where the Council proposes to appoint a Chief Officer (statutory or non-statutory) or a Deputy Chief Officer, then:

- (a) The Employment and Personnel Committee shall oversee the arrangements for filling the vacancy of a Chief Officer;
- (b) the appropriate Chief Officer (statutory or non-statutory) shall be responsible for overseeing the arrangements for the appointment of a Deputy Chief Officer.

3.2 The Employment and Personnel Committee or the appropriate Chief Officer shall:

- (a) draw up a statement specifying the duties and salary of the officer concerned and any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
- (c) make arrangements for a copy of the statement mentioned in (a) above to be sent to any person on request;
- (d) select from the applications a short list of qualified candidates and arrange for the Appointments Panel Sub-Committee to interview those included in the short list.

3.3 Following the interview of candidates, the Appointments Panel Sub-Committee will come to a view as to the most suitable person or the position.

3.4 The Appointments Panel Sub-Committee must advise the Director of Corporate Management of:

- (a) the name of the person in question;
- (b) any other particulars that the committee consider are relevant to the appointment.

3.5 Within five clear working days of receiving notification in 3.4 above, the Director of Corporate Management will notify each Cabinet member of:

- (a) the information notified under paragraph 3.4 above;
- (b) the period in which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Director of Corporate Management; such period not to exceed five clear working days.

3.6 An offer of appointment must wait until:

- (a) the Leader has within the period of notice under paragraph 3.5 above, notified the Employment and Personnel Committee through the Director of Corporate Management that neither they nor any Cabinet member has any objection to the making of the offer; or
- (b) the Director of Corporate Management has notified the Employment and Personnel Committee that no objections have been received by them within the period of notice set out in 3.5 above; or
- (c) the Personnel Committee is satisfied that any objection received from the Leader within the notice period is not material or not well founded. In this regard, where necessary, the advice of the Director of Corporate Governance, Property and Procurement (or if appropriate an alternative legal adviser) should be sought; or
- (d) In respect of the Section 151 Officer and the Monitoring Officer, until Full Council has approved the statutory designation.

3.7 Once the conditions in 3.6 above have been satisfied, a formal offer of appointment may be made to the successful candidate.

3.8 Where following interviews the Appointments Panel Sub-Committee is of the view that there is no suitable candidate the post must be re-advertised.

4. Dismissal of Statutory Chief Officers (Head of Paid Service, Section 151 Officer and Monitoring Officer only)

4.1 The IDC is designated as the committee discharging, on behalf of the Council, the function of dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer. Full Council must, however, approve that dismissal before notice of dismissal is given to them.

4.2 Notice of dismissal, where appropriate, of Statutory Chief Officers must not be given until the Disciplinary Procedures relating to Statutory Chief Officers detailed in this Constitution have concluded.

4.3 If Full Council approves the recommendation of the IDC, following a recommendation from the Independent Panel, then notice of dismissal can be issued. Where Full Council does not approve the recommendation, it shall indicate how it wishes to proceed.

5. Dismissal of other Statutory Chief Officers, Non-Statutory Chief Officers and Deputy Chief Officers

5.1 Subject to the rules relating to the dismissal of Statutory Officers, the IDC is designated as the committee discharging, on behalf of the Council, the function of dismissal of Statutory Chief Officers not specified at paragraph 4.1, Non-Statutory Chief Officers and Deputy Chief Officers

5.2 Notice of dismissal of any such Chief Officer or Deputy Chief Officer must not be given until the Disciplinary Procedures relating to Non-Statutory Chief Officers detailed in this Constitution have concluded.

5.3 Where following the above procedure there are no objections to the proposed dismissal, the IDC may issue the notice of dismissal.

6. Director of Public Health

6.1 The appointment of the Director of Public Health who is appointed in pursuance of section 73A(7) of the National Health Service Act 2006 (inserted by section 30 of the Health and Social Care Act 2012) is the responsibility of the Employment and Personnel Committee, subject to the approval of the appointment by the Secretary of State for Health.

6.2 The IDC may terminate the appointment of the Director of Public Health having followed the relevant procedures and following prior consultation with the Secretary of State for Health.

7. Other Officers

7.1 Appointment and dismissal of officers below Deputy Chief Officer is the responsibility of the Chief Executive or their nominee and will not be undertaken by councillors. Councillors will not be involved in disciplinary action against any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

Disciplinary Procedure for Statutory Chief Officers

1. Scope of Procedure

- 1.1 This Procedure applies to the officer designated as the Head of the council's Paid Service and Chief Executive, the Chief Finance Officer and the Monitoring Officer (hereafter referred to as the "Statutory Officers").
- 1.2 This Procedure has been adopted by the council for the purpose of dealing with disciplinary, capability and other substantial issues in relation to the Statutory Officers of the Council. For the avoidance of doubt, this Procedure also applies to a breakdown in trust and confidence between the Chief Executive and the Authority.
- 1.3 These procedures are consistent with Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001, as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (hereafter referred to as the "Schedule 3 Provisions"). The procedure is based on the Model Procedure set out in the Joint Negotiating Council (JNC) Conditions of Service Handbook for Chief Executives, which is consistent with the Schedule 3 provisions.
- 1.4 The Model procedure must be used in the case of Chief Executives and the JNC Conditions of Service for Chief Officers states that they can be used in the case of all statutory officers. This procedure must be read in conjunction with the guidance notes at Appendix 5 of the JNC Conditions of Service for Chief Executives Handbook.
- 1.5 Minor conduct issues can often be resolved informally. Formal steps will be taken under this Procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).
- 1.6 The objective of this Procedure is to:
 - (i) encourage Statutory Officers to achieve and maintain acceptable standards of behaviour;
 - (ii) provide a fair and consistent method of dealing with alleged failure to maintain acceptable standards of behaviour;
 - (iii) minimise disagreements about disciplinary matters; and
 - (iv) reduce the need for disciplinary action and dismissals.
- 1.7 The parties recognise that it may be necessary to depart from the Procedure, from time to time, according to the particular circumstances of a case, but not to the extent that they contradict the Schedule 3 provisions. In such circumstances, both parties agree to give fair consideration to reasonable proposals to modify the Procedure accordingly.

- 1.8 This Procedure does not form part of a Statutory Officer's contract of employment and it may be amended at any time, subject to overall compliance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).
- 1.9 Any disciplinary matters will be dealt with sensitively and with due respect for the privacy of any individuals involved. All individuals involved must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

2. Issues Requiring Investigation

- 2.1 Where an allegation is made relating to the conduct and capability of the Statutory Officer or there is some other substantial issue that requires investigation, the matter will be referred to the Investigating and Disciplinary Committee ("Investigating and Disciplinary Committee") for consideration.
- 2.2 The Investigating and Disciplinary Committee should:
- (i) include no fewer than five elected members;
 - (ii) should not include any member with a direct personal involvement in the complaint, either as a complainant, witness or party to the allegations under consideration;
 - (iii) should be politically balanced.
 - (iv) Include at least one member of the Council Cabinet, with not more than half of the members of the Investigating and Disciplinary Committee being members of the executive.
- 2.3 The Investigating and Disciplinary Committee shall appoint a chair person to oversee the function of the Committee ("Chair"). In the absence of the Chair, the powers and responsibilities of the Chair detailed in these procedures may be exercised by a substitute appointed by the Committee ("Vice-Chair").
- 2.4 The Investigating and Disciplinary Committee shall be advised throughout by a suitable adviser who may be employed by or independent of the Council, (the "Independent Adviser") who shall ordinarily be accompanied by a member of the Council's HR Team, save in cases where a conflict of interest could arise, in which case the Chair shall appoint a nominee, who may be an external adviser.

3. Triggering the Procedure

- 3.1 Not all complaints against a Statutory Officer should be dealt with under the formal process. Prior to triggering the procedure, the relevant decision-maker will filter out allegations against a Statutory Officer which are:
- (a) Clearly unfounded (i.e. an allegation not supported by any substantiating evidence)

- (b) Trivial, vexatious or malicious
 - (c) Can be dealt with under a separate procedure
- 3.2 Triggering the procedure will be determined by the Monitoring Officer in the case of complaints against the Chief Executive or Chief Finance Officer, and the Chief Executive in the case of complaints against the Monitoring Officer.
- 3.3 The subject of the complaint will be provided with full details of the complaint before being interviewed by the officer managing the procedure.
- 3.4 The officer managing the procedure will prepare a report stating whether the complaint should be rejected for any of the reasons detailed at paragraph 3.1; or, whether it should be referred to the Investigating and Disciplinary Committee for consideration in the manner set out at Section 7 of this procedure. A copy of the report will be shared with the Chair of the IDC.
- 3.5 In the event that the complaint is referred to the Investigating and Disciplinary Committee for consideration, the Statutory Officer will be invited to make written submissions in response to the complaint.

4. Timescale

- 4.1 It is in the interests of all parties that proceedings be conducted expeditiously.
- 4.2 It is recognised that it would be inappropriate to impose timescales that could in practical terms be difficult to achieve.

5. Suspension

- 5.1 Suspension will not always be appropriate as there may be alternative ways of managing the investigation.
- 5.2 However, the Investigating and Disciplinary Committee will need to consider whether it is appropriate to suspend the Statutory Officer. This may be necessary if an allegation is such that if proven it would amount to gross misconduct. It may also be necessary in other cases if the continuing presence at work of the Statutory Officer might compromise the investigation or impair the efficient exercise of the Council's functions.
- 5.3 In any case, the Statutory Officer shall be informed of the reason for the proposed suspension and have the right to present information before such a decision is taken.
- 5.4 The continuance of a suspension should be kept under regular review. Any suspension is to be reviewed no later than two months after having been put in place.
- 5.5 The power to suspend may be exercised by the Committee in respect of any Statutory Officer.

- 5.6 In cases of urgency, whereby allegations of misconduct by the Statutory Officer are such that their remaining presence at work poses a serious risk to the health and safety of others or the resources, information, or reputation of the authority, the power to suspend may be exercised by:
- (a) The Chair of the Investigating and Disciplinary Committee (in consultation with the Monitoring Officer) in respect of the Chief Executive or Chief Finance Officer;
 - (b) The Chair of the Investigating and Disciplinary Committee (in consultation with the Chief Executive) in respect of the Monitoring Officer.
- 5.7 Save in urgent or exceptional cases, prior to imposing suspension in any case, the Investigating and Disciplinary Committee shall inform the Statutory Officer, in writing, of the reason for the proposed suspension and the Statutory Officer shall have the opportunity to make representations before a decision is taken.
- 5.8 In urgent or exceptional cases, the Statutory Officer shall be informed of such reasons in writing and may make representations to the Chair of the Investigating and Disciplinary Committee.
- 5.9 Specific consideration should be given as to whether alternative working arrangements might be implemented which could avoid the need for the Statutory Officer's suspension, whilst avoiding any prejudice to the investigation or to the efficient exercise of the Council's functions.
- 5.10 Absence from duty during any period of suspension shall be on full pay.

6. Right to be accompanied

- 6.1 Other than in circumstances where there is an urgent requirement to suspend the Statutory Officer, they will be entitled to be accompanied at all stages by their Trade Union representative or some other person of their choice, at their own cost.

7. Considering the allegations or other issues under investigation

- 7.1 The Chair of the Investigating and Disciplinary Committee will, as soon as is practicable, inform the Statutory Officer in writing of the allegations or other issues under investigation and provide them with any evidence that the Committee is to consider and of their right to present evidence.
- 7.2 The Statutory Officer will be invited to put forward written representations and any evidence, including any evidence from witnesses they wish the Committee to consider, within one month of being notified of the allegation by the Chair. The Committee will also provide the opportunity for the Statutory Officer to make oral representations. At this initial consideration of the need to investigate further, it is not anticipated that witnesses will be called. The discretion to call witnesses lies solely with the Investigating and Disciplinary

Committee.

- 7.3 The Investigating and Disciplinary Committee will give careful consideration to the allegations or other issues, supporting evidence and the case put forward by the Statutory Officer before taking further action.
- 7.4 Having considered the guidance contained within Appendix 5 of the NJC Chief Executive's Handbook, the Investigating and Disciplinary Committee will decide whether:
 - (a) The issue requires no further formal action under this procedure, or
 - (b) The issue should be referred to an Independent Investigator.
- 7.5 The Investigating and Disciplinary Committee will inform the Statutory Officer of its decision without delay.

8. Appointment of an Independent Investigator

- 8.1 The Investigating and Disciplinary Committee will be responsible for appointing an individual to investigate the complaint (the "Independent Investigator"), providing the necessary facilities, paying the remuneration and providing all available information about the allegations.
- 8.2 The Independent Investigator should be selected from the list of suitably qualified individuals maintained by the National Joint Secretaries. The NJC operates a 'taxi-rank' system whereby the Council will be given the next three names from the list which, if acceptable to the Council, will be given to the Statutory Officer, who will select one of the three.
- 8.3 The Statutory Officer will be entitled to reject any of those listed in the case of a conflict of interest. If an appointment is not agreed nor a notification of rejection on grounds of conflict of interest made by the Statutory Officer within 14 days of the date of the names being supplied, the Council will be at liberty to select an Investigator from the names provided.

9. The Independent Investigation

- 9.1 The Independent Investigator will undertake an investigation in accordance with the ACAS Code of Practice on Discipline and Grievance, to establish the facts of the case before proceeding to a disciplinary hearing.
- 9.2 Once appointed it will be the responsibility of the Independent Investigator to investigate the issue/allegation and to prepare a report stating in their opinion whether (and if so, the extent to which) the evidence they obtained supports any allegation of misconduct or incapability, or supports a need for action under this procedure for some other substantial reason.
- 9.3 The Independent Investigator will recommend any disciplinary action (if any is appropriate) or range of actions which appear to be appropriate for the authority to take against the Statutory Officer.

- 9.4 The Independent Investigator will be entitled to interview witnesses and carry out such enquiries as they deem necessary. This may include examining the Council's email, internet, and other IT systems, including the accounts of the Statutory Officer. The Statutory Officer shall fully cooperate with the Independent Investigator and shall make themselves available for such interviews and meetings and provide any relevant documentation or information as the Independent Investigator deems necessary.
- 9.5 The Statutory Officer shall be given reasonable facilities and access to the Council's premises and systems as well as personal files/diary, etc. to allow them to prepare their responses on such terms as may be agreed by the Independent Investigator.
- 10. Receipt and consideration of the Independent Investigator's report by the Investigating and Disciplinary Committee**
- 10.1 The officer managing the procedure should ensure that the Statutory Officer receives the Independent Investigator's report simultaneously with the Investigating and Disciplinary Committee.
- 10.2 The Investigating and Disciplinary Committee will consider the report of the Independent Investigator, and give the Statutory Officer the opportunity to state their case, and to question witnesses, where relevant, before making a decision.
- 10.3 A hearing will be conducted in accordance with the ACAS Code of Practice, Appendix 5 of the NJC Chief Executive's Handbook and the Hearings Procedure detailed at paragraphs 10.4 to 10.10.
- 10.4 The Chair of the Investigating and Disciplinary Committee or their nominee shall give the Statutory Officer written notice of the date of the Hearing. The notice shall include:
- (i) the time and place of the Hearing;
 - (ii) who will be in attendance at the Hearing including the members of the Investigating and Disciplinary Committee;
 - (iii) a copy of the Investigation Report and any supporting documentation (including any witness statements where relevant) and the allegations to be considered at the Hearing;
 - (iv) confirmation that the meeting is convened under this Procedure and could result in disciplinary action;
 - (v) confirmation that the Statutory Officer may be accompanied at the Hearing by a trade union representative, an official employed by a trade union or a fellow work colleague or some other person of their choice, at their own expense ("Companion");
 - (vi) Confirmation that the Statutory Officer may ask any person to be

present as a witness or adduce any documents or written statements in support of their response, provided full details of such witnesses and copies of any such documents or statements are provided to the Chair of the Investigating and Disciplinary Committee, or their nominee, at least five working days before the date of the Hearing, for distribution to all parties.

- 10.5 The Statutory Officer and their Companion must make every effort to attend the meeting. Failure to attend without good reason may be treated as misconduct in itself. If the Statutory Officer fails to attend without good reason, or persistently fails to do so, the meeting of the Investigating and Disciplinary Committee may proceed in their absence and a decision may be made based on the available evidence.
- 10.6 If the Investigating and Disciplinary Committee hear the case in full, at least five working days before the date of the Hearing the Statutory Officer shall give to the Chair of the Investigating and Disciplinary Committee, or their nominee:
- (i) Full details of any witnesses they wish to call;
 - (ii) Copies of any documents which they wish to refer to in support of their response;
 - (iii) Any written statements or submissions which they wish to rely upon; and
 - (iv) Details of the Companion they wish to bring to the Hearing.
- 10.7 The procedure for the Hearing will be as follows:
- (i) the Chair of the Investigating and Disciplinary Committee will set out the complaint, explain the purpose of the Hearing and the procedure to be followed;
 - (ii) the Independent Investigator will present the complaint and introduce evidence in support of the complaint, including their report, documents and witness evidence either in person or in writing as previously notified;
 - (iii) the Statutory Officer or their Companion, and the Investigating and Disciplinary Committee and Independent Adviser, will have the opportunity to ask questions of the Independent Investigator, including direct questions to the witnesses;
 - (iv) the Statutory Officer or their Companion will introduce evidence in support of their response to the allegations, including documents and witnesses as previously notified;
 - (v) the Independent Investigator, or their nominee, and the Investigating and Disciplinary Committee and the Independent Adviser will have the

opportunity to ask questions of the Statutory Officer and/or their Companion, including direct questions to the witnesses;

- (vi) both sides will sum-up their presentations, commencing with the Independent Investigator.

- 10.8 The Statutory Officer's Companion can address the hearing, put and sum up the Statutory Officer's case, make representations on behalf of the Statutory Officer to any views expressed at the Hearing and confer with the Statutory Officer during the Hearing. The Companion does not, however, have the right to answer questions on the Statutory Officer's behalf.
- 10.9 The Hearing may be adjourned if the Investigating and Disciplinary Committee need to carry out any further investigations such as re-interviewing witnesses in the light of any new points which are raised at the Hearing. The Statutory Officer will be given a reasonable opportunity to consider any new information obtained before the Disciplinary Hearing is reconvened.
- 10.10 Upon conclusion of the hearing the Investigating and Disciplinary Committee may:
 - (a) Take no further action
 - (b) Recommend informal resolution
 - (c) Refer back to the Independent Investigator for further investigation and report
 - (d) Take disciplinary action against the Statutory Officer short of dismissal
 - (e) Propose dismissal of the Statutory Officer to the Council.

11. Action short of dismissal

- 11.1 The Investigating and Disciplinary Committee may agree to impose no sanction, or to take action short of dismissal, in which case the Committee may impose an appropriate penalty from amongst the options identified in paragraph 11.2.
- 11.2 In the case of disciplinary action short of dismissal, the Investigating and Disciplinary Committee may impose the necessary penalty up to the maximum recommended by the Independent Investigator and this can include the following:
 - (i) a written warning;
 - (ii) a final written warning;
 - (iii) In exceptional circumstances, where the misconduct warrants dismissal but there are mitigating circumstances, action short of dismissal may be considered as an alternative to dismissal. This may include transferring

to alternative employment or reducing the seniority or level of responsibility. This may result in a reduction in pay and/or a change to terms and conditions. If the Statutory Officer does not agree to this, then they may be dismissed with notice or with payment in lieu of notice, with the agreement of the Council and in accordance with the remainder of this procedure;

- 11.3 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that period.
- 11.4 The hearing shall adjourn and all others present (other than the Independent Adviser) will withdraw while the Investigating and Disciplinary Committee consider their decision.
- 11.5 Where practicable, the decision of the Investigating and Disciplinary Committee will be delivered orally after an adjournment, together with the reasons for the decision. However, in order to ensure that the Investigating and Disciplinary Committee shall be afforded sufficient time to fully consider their decision, their decision may be deferred and issued to the Statutory Officer in writing as soon after the Hearing as is reasonably practicable and within no more than five working days, except with the agreement of all parties.
- 11.6 A letter will be sent to the Statutory Officer which outlines the decision, the reasons for the decision and the action, if any, to be taken and will set out the rights of appeal ("Decision Letter").

Where the Investigating and Disciplinary Committee propose dismissal

- 11.7 The Investigating and Disciplinary Committee will notify the appropriate designated officer or their nominated deputy (the "Proper Officer") that it is proposing to the Council that the Statutory Officer be dismissed and that the executive objections procedure should commence in accordance with the Local Authorities (Standing Orders)(England) Regulations 2001, as amended.
- 11.8 The Proper Officer will notify all members of the executive of:
 - (a) the fact that the Investigating and Disciplinary Committee is proposing to the Council that it dismisses the Statutory Officer;
 - (b) any other particulars relevant to the dismissal;
 - (c) the period (being no less than five working days) by which any objection to the dismissal is to be made by the Leader on behalf of the Executive, to the Proper Officer.
- 11.9 At the end of the period of notification, the Proper Officer will either: (a) inform the Investigating and Disciplinary Committee that the Leader has notified that neither they nor any member of the executive has any objection to the dismissal; (b) inform the Investigating and Disciplinary Committee that no

objections have been received from the Leader in the period; or (c) inform the Investigating and Disciplinary Committee that an objection or objections have been received and provide details of the objections.

- 11.10 The Investigating and Disciplinary Committee will consider any objections and satisfy itself as to whether any of the objections are both material and well founded. If they are well founded, the Investigating and Disciplinary Committee will act accordingly which may include consideration of the impact of the executive objections on the Investigation Report and relevance to the sanction or the commissioning of further investigation by the Independent Investigator.
- 11.11 Once the Investigating and Disciplinary Committee is satisfied that there are no material and well-founded objections to the proposal to dismiss, the Investigating and Disciplinary Committee will inform the Statutory Officer of the decision and put that proposal to a panel of Independent Persons (the “Independent Panel”) along with any necessary material or documentation it considers appropriate.

12. The Independent Panel

- 12.1 Where the Investigating and Disciplinary Committee is proposing dismissal, the recommendation needs to go before the Independent Panel. This is not a full rehearing of the case and will not involve the calling of witnesses.
- 12.2 The Independent Panel is a committee of the Council, appointed under Section 102(4) of the Local Government Act 1972, and comprises only independent persons (at least two) appointed under Section 28(7) of the Localism Act 2011. Panel members are to be offered appropriate training to undertake their role.
- 12.3 Where practicable, the Independent Panel should be serviced and supported by officers who have not attended meetings of the Investigating and Disciplinary Committee.
- 12.4 Both parties should be present or represented (the Investigating and Disciplinary Committee may be represented by the Chair or other nominated person) at the Panel meeting.
- 12.5 The Panel should hear the reasons for the Investigating and Disciplinary Committee’s recommendation and receive any oral representations from the Statutory Officer, in which case it should invite any response on behalf of the Investigating and Disciplinary Committee to the points made, and may ask questions of either party.
- 12.6 The Panel will review the Investigating and Disciplinary Committee’s recommendation for dismissal and prepare a report for Council. The report should contain a clear rationale if the Panel disagrees with the recommendation to dismiss.

13. The role of the Council

- 13.1 The Council will consider the proposal that the Statutory Officer should be dismissed, and must take into account:
- (a) Any advice, views or recommendations of the Independent Panel
 - (b) The conclusions of the investigations into the proposed dismissal
 - (c) Any representations from the Statutory Officer
- 13.2 Where the Independent Panel does not endorse the recommendation of the Investigating and Disciplinary Committee, the Chair of the Independent Panel should be invited to attend and present the report of the Panel and to answer questions.
- 13.3 The Statutory Officer will have the opportunity to appear before the Council and put their case to the Council before a decision is taken.

14. Redundancy, Permanent Ill-Health and the expiry of Fixed Term Contracts

- 14.1 Proposed dismissals on the grounds of redundancy, permanent ill-health and the expiry of a fixed term contract where there has been no commitment to renew it, do not require the involvement of the Investigating and Disciplinary Committee, Independent Investigator or Independent Panel. Dismissals of Statutory Officers for all reasons, including those set out in this paragraph, must be approved by the Council.

15. Appeal Process

- 15.1 This procedure provides for different arrangements for appeals against dismissal and appeals against action short of dismissal.

Appeals against dismissal.

- 15.2 Where the Investigating and Disciplinary Committee has made a proposal to dismiss, the hearing by the Council will also fulfil the appeal function. In these circumstances:
- (a) Where an appeal is made, the appeal will be considered by full Council following the procedure set out at 15.5 to 15.15 below; and
 - (b) where no appeal is made, full Council will consider the recommendation to dismiss by the Investigating and Disciplinary Committee and either approve that decision or otherwise determine an alternative disciplinary penalty.

Appeals against action short of dismissal.

- 15.3 If the Investigating and Disciplinary Committee imposes action short of dismissal, the Statutory Officer may appeal against any such sanction to the Appeals Committee. The Appeals Committee will consider the report of the

Independent Investigator and any other relevant information considered by the Investigating and Disciplinary Committee.

15.4 The Appeals Committee will:

- (a) Include no fewer than five elected members;
- (b) Not include any member with a direct personal involvement in the complaint, either as a complainant, witness or party to the allegations under consideration;
- (c) Be politically balanced;
- (d) Include at least one member of the Council Cabinet, with not more than half of the members of the Appeals Committee being members of the executive;
- (e) Not include members of the Investigating and Disciplinary Committee who considered any aspect of the allegation that is the subject of the appeal.

15.5 Any appeal must be made in writing to the Chair of the Appeals Committee or their nominee as set out in the Decision Letter within ten working days of the date of the Decision Letter including the grounds of appeal ("Notice of Appeal").

15.6 The Chair of the Appeals Committee or their nominee shall inform the Statutory Officer of the date of the Appeal Hearing and will follow the same procedure detailed at paragraph 10.4 of this procedure.

15.7 No fewer than five working days prior to the Appeal Hearing, the Statutory Officer must inform the Chair of the Appeals Committee of the following details in relation to the Notice of Appeal and provide the following information:

- (i) whether the Statutory Officer is to be accompanied at the Appeal Hearing by a Companion and if so by whom;
- (ii) whether they wish to call witnesses and if so, their names;
- (iii) copies of any additional documents or information relevant to the appeal that was not provided at the initial Hearing;

15.8 The Appeal Hearing will normally take the form of a review of the decision taken by the Investigating and Disciplinary Committee.

15.9 The Appeals Committee will consider the appeal as soon as reasonably practicable after the Notice of Appeal has been received. It will invite the following persons to be present at an Appeal Hearing:

- (i) the Statutory Officer, who may be accompanied by a Companion; and

- (ii) the Chair of the Investigating and Disciplinary Committee or another member of the Committee if so nominated by the Chair, to explain the reasons for their decision and to answer any questions.
- 15.10 The Procedure for conducting the Appeal Hearing will follow that set out in paragraph 10.7 of this procedure in relation to the initial Hearing.
- 15.11 The Appeals Committee shall be advised by an independent adviser who shall not usually be the same adviser who advised the Investigating and Disciplinary Committee.
- 15.12 The Appeals Committee may take into account any additional information which has become available in relation to the allegations or other issues under investigation following the initial Hearing.
- 15.13 The Appeals Committee may decide to uphold or dismiss the original decision or recommendation of the Investigating and Disciplinary Committee, or impose a different sanction, as long as it is not more severe than originally recommended by the Independent Investigator and within the range of penalties as set out in paragraph 11.2.
- 15.14 The decision reached will be final and there is no further right of appeal.
- 15.15 If it is not practicable for the Appeals Committee to provide their decision orally at the conclusion of the Appeal Hearing, it will be notified to the Statutory Officer, in writing, as soon after the Appeal Hearing as is reasonably practicable, and within no more than five working days.

Disciplinary Procedure for Chief Officers and Deputy Chief Officers

TO BE INCORPORATED PENDING APPROVAL OF UPDATED POLICY BY
COUNCIL

Contract Procedure Rules

Contract Procedure Rules

Part 1 – Introduction, Scope and Responsibilities

1. Introduction

- 1.1 These rules form part of the Council's Constitution and apply to all procurement activities (the purchase of goods, services and works) undertaken by the Council. They must be read in conjunction with any other relevant laws, regulations, policies and/or procedures.
- 1.2 Compliance with these Rules is a requirement not discretionary. Every officer involved in buying goods or services or ordering building or engineering works must be aware of the Rules and comply with them. Failure to do so could result in disciplinary action.

2. Basic Principles

- 2.1 Whether or not a procurement is subject to the UK Procurement Regulations, it must be conducted in accordance with the Agreement on Government Procurement (GPA). This means all procurement processes must be carried out in a fair, open and transparent way.
- 2.2 The purpose of the Rules is to:
 - (a) achieve value for money (value for money is not the lowest possible price; it combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price);
 - (b) be consistent with the highest standards of integrity;
 - (c) ensure fairness in allocating public contracts;
 - (d) comply with all legal requirements;
 - (e) support the Council in complying with the principles of the National Procurement Strategy for Local Government;
 - (f) prevent fraud and corruption;
 - (g) protect the interests of Council employees
 - (h) manage the Council's risk effectively
 - (i) are proportionate in regard to value and risk

3. Advice and Guidance

- 3.1 Further information on procurement generally is on the MiDerby Procurement pages.
- 3.2 In addition, advice on specific procurement issues and how to apply the Rules can be obtained by contacting the Procurement Service or the Monitoring Officer.

4. Responsibilities

4.1 Directors

- Directors, delegating as necessary to Heads of Service, must take all reasonable measures to ensure that procurements carried out by their department comply with the Rules;
- Staff within their department are adequately trained;
- There is full budgetary provision for the contract and that the sources of funding are fully detailed before starting the procurement process.

4.2 Officers

- The officer responsible for the procurement must comply with these rules, the Financial Regulations and relevant legislation (including any treaties incorporated into UK law);
- The officer is responsible for ensuring that agents acting on behalf of the Council must comply with these rules;
- Officers must ensure that the contracts for which they are responsible are effectively managed and monitored to ensure that they deliver the requirement as intended;
- Where an officer has a potential conflict of interest with a supplier from whom a quotation/tender is being sought, the officer must declare this immediately to the Monitoring Officer. The officer may be required to withdraw from the procurement process;
- Officers must ensure that no contract commences without a signed contract in place and a purchase order being raised for the goods, services and/or works.

5. Amendments to these Rules

- 5.1 The Monitoring Officer in consultation with the Head of Procurement shall have the power to make incidental amendments from time to time to these rules, to ensure that they remain consistent with legislation, The Council's organisational structure and generally with best practice.
- 5.2 Any significant amendment to this Rule must be approved by full Council but only after consultation with the Audit and Governance Committee.

6. Exemptions to the Rules

6.1 The Rules do NOT apply to:

- contracts of employment with individual employees;
- land transactions (sales, purchases, leases, licences, easements etc. although certain development agreements are covered);
- performing artists contracts;
- contracts entered on behalf of individual users of Adult Social Care Services who have been awarded personal budgets to support their social care needs;

- goods and services which a school is obliged to purchase from a specified contractor under the terms of a Private Finance Initiative (PFI) contract, where the competition requirement has already been satisfied;
- giving of grant funding (but contracts with voluntary organisations for the supply of services, goods and works are covered by the Rules);
- Out of area Authority placements and Public Health services provided that those placements are established in line with the out of area Authority's rules;
- Lending or borrowing of money;
- Any contracts entered through collaboration with another contracting authority and/or public body, where the lead authority can demonstrate the arrangements comply with the requirements for Value for Money and applicable legislation.

7. Requesting a Waiver from these Rules

- 7.1 Officers must in the first instance comply with the requirements of the Contract Procedure Rules. Waivers are not an alternative procurement method to tendering.
- 7.2 Waivers should not be sought due to insufficient time to follow correct procedures (as this is evidence of failure to plan sufficiently) except in unforeseeable emergencies (e.g. fire, flood etc.).
- 7.3 In exceptional circumstances, waivers to the Rules may be granted by Cabinet or, in cases of urgency by the relevant Director and either the Monitoring Officer or the Head of Procurement.
- 7.4 Any request for a Cabinet waiver must, after consultation with the Head of Procurement or Monitoring Officer, be submitted in writing to the relevant Head of Finance for inclusion in the "Contract & Financial Procedures Matters" report to Cabinet.
- 7.5 A record of all waivers must be kept by the Head of Procurement.
- 7.6 All waiver approvals, departmental, urgent and by Cabinet, must be reported on a quarterly basis by the Head of Procurement to the Council's Audit & Governance Committee who will monitor the use of waivers.
- 7.7 A waiver cannot be given where the contract value exceeds the UK Procurement Regulations thresholds unless the Monitoring Officer has confirmed in writing that an exemption is available under the Procurement Regulations.
- 7.8 Directors may approve a waiver not to obtain three written quotes for procurements with a value under Procure Regulation thresholds.
- 7.9 Where a waiver is to be used, the waiver must be formally completed and signed prior to entering into any contract for goods, services and/or works.

8. Prevention of Corruption and Conflicts of Interest

- 8.1 The officer responsible for the procurement must comply with the Council's Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract.
- 8.2 Officers are advised that any inappropriate behaviour could result in dismissal and may be reported to the police.

Part 2 – Pre-Procurement

1. Competition Requirements

- 1.1 The nature of the procurement process to be undertaken will depend on the estimated total value of the contract.
- 1.2 Officers must establish the total value of the procurement for the life of the contract including any potential extension periods which may be awarded.
- 1.3 Officers shall not sub-divide goods, services and/or works that could reasonably be treated as a single contract to avoid these rules, thresholds or any legal requirements.
- 1.4 Where the estimated total value of the proposed contract is within the values in the first column the award procedure in the second column must be followed, unless an alternative method to tendering is chosen

TOTAL VALUE	AWARD PROCEDURE
Below £10,000	<p>Must use existing relevant Corporate Contract if there is one and if not get at least one quote and then place an official order.</p> <p>It is good practice to get three Quotes and include at least one local supplier if possible.</p>
From £10,000 up to UK Procurement Regulations threshold	<p>Must, before placing an order, get at least three written Quotes using the procurement portal. At least one quotation should be requested from a local supplier where possible. The Procurement Service can advise on local suppliers and provide suitable</p>

	process templates.
Above UK Procurement Regulation Threshold	Must conduct a tender process in accordance with the Regulations. The Procurement Service must be involved in the process and advice sought.

2. Steps Prior to Procurement

2.1 Where a procurement is required, the officer must establish the contract term. No contract can be for longer than 5 years (including options to extend) unless:

- the contract involves delivery of a project which is programmed for longer than 5 years; or
- the contract is for the supply of a fixed quantity of goods which will take longer than 5 years to supply; or
- express Cabinet approval has been given for a longer period or
- the contract is for software maintenance tied to a software licence or
- It is to establish a framework which must be for a maximum of 4 years

2.2 The officer must ensure that they have the relevant budget approvals and appropriate authority to start the procurement process.

2.3 Cabinet approval must be obtained before procuring any contract which has an estimated total value above regulation threshold unless:

- it is merely a re-tendering of a current contract with no significant change.

OR

- it is in a capital scheme previously approved by Cabinet.

3. Pre-Tender Market Research and Consultation

3.1 Prior to the issue of an invitation to tender or advert asking for expressions of interest the Officer may wish to know the views of potential tenderers about the nature, level, standard and packaging of the goods or services or works to be supplied so as to best ensure competition and value for money; this is called “soft market testing”.

3.2 When carrying out soft market testing the Officer must:

- make it clear to participating organisations that they will receive no preferential treatment in the Tender process;

- keep a written record in the contract file of all enquiries, responses and any related meetings.
- 3.3 Pre-tender consultation with service users on what is being procured is encouraged and is considered good practice to ensure the specification correctly addresses what is required.
- 3.4 When considering undertaking any of these activities, the officer must seek advice from the procurement service.
- 4. Public Services (Social Value) Act 2012**
- 4.1 The Public Services (Social Value) Act 2012 requires public sector agencies to consider how the service they are procuring could bring added economic, environmental and social benefits and to consider whether they should consult on these issues. It is not specified who should be consulted but Officers could include service user representatives, voluntary and community groups and suppliers of the services in order to be able to shape the service required to maximise social value.
- 5. Corporate Contracts**
- 5.1 The Council has Corporate Contracts which cover many items required on a daily basis such as stationery, office furniture and desktop equipment.
- 5.2 Before undertaking a procurement exercise, officers must check if a Corporate exists and, where it does, the officer must use the relevant corporate contract.
- 6. External Framework Agreements and Dynamic Purchasing Systems (DPS)**
- 6.1 Framework Agreements procured by other local authorities, public bodies or purchasing consortia, for example Crown Commercial Service (CCS), Eastern Shires Purchasing Organisation (ESPO), may be used if the Head of Procurement has approved their use on being satisfied that the Council can lawfully use them and that it is in the Council's interest to do so.

Part 3 – Procurement Thresholds

1. General Requirements

- 1.1 Please see table at 1.4 for the procurement thresholds and the process to be followed

2. Purchases over Regulation Threshold

- 2.1 All goods, services and/or works over the regulation threshold are covered by the UK Procurement Regulations. These Regulations govern the process for advertising, timetabling and Supplier Selection.
- 2.2 The latest thresholds and regulations can be obtained from the procurement

service.

- 2.3 The officer, in collaboration with the procurement service, shall decide the procurement process which is most appropriate.

Part 4 – Procurement Documents

1. Invitations to Tender and Quotations

- 1.1 All Invitation to Tender and Quotations must include Instructions to Bidders as well as:

- specification of the goods, services or works required; and
- contract conditions.

- 1.2 Instructions to Bidders must include:

- the award criteria and, where applicable, the weightings applicable to each of those criteria;
- the last time and date for receipt of bids;
- a check list of all documents that must be returned with the bid, for example: method statements;
- a requirement that bids must be kept open for acceptance for no less than xx days;
- full details of the time, date and method by which bids can be submitted through the Council's e-Tendering system;
- a statement that the Council is not bound to accept the lowest or any bid;
- a statement that the Council will not be liable for the tenderers expense in preparing their bid;
- a statement that no bid received after the closing date and time will be accepted.

- 1.3 To assist Officers, process template documents can be obtained from the Procurement Service who can also give further advice.

2. Advertising Requirements

- 2.1 Procurements over £100,000 should be advertised on Contracts Finder

- 2.2 Procurements above the Regulations Thresholds should be advertised in accordance with the UK Procurement Regulations.

- 2.3 Contracts over £10,000 must be recorded on the Contract Register

3. Submission of Tenders or Quotations

- 3.1 Tenderers must be given a reasonable period in which to prepare and submit a tender or quotation having regard to the amount of detail that they have to prepare and the complexity of the contract requirements.

4. Late Tenders

- 4.1 Late Tenders or Tenders that are not submitted in accordance with these Rules will be disqualified unless approved by the Monitoring Officer.

5. Evaluation

- 5.1 Tenders must be evaluated in accordance with the stated award criteria and, where the criteria are other than the lowest price, a written record must be kept of the evaluation with scores for each Tenderer on each of the stated award criteria.
- 5.2 The evaluation must be carried out by a panel consisting of the officer and at least one other officer of appropriate seniority, supported and moderated by the procurement service.

6. Clarification Procedures

- 6.1 No tenderer will be permitted to alter its tender after it has been received by the Council except with the Head of Procurement's consent to correct an arithmetical or typographical error or omission made in the tender.
- 6.2 Officers may ask bidders for clarifications to any of the details submitted as part of their bid. However, such clarifications must not result in a significant change to the bid or related documentation.

7. Notification of Award

- 7.1 Following contract award, the officer must inform successful and unsuccessful bidders in writing whether or not their bid was successful.
- 7.2 Where the value of the contract is over £25,000, the details of the contract should be passed to the procurement service to publish an award notice on Contracts Finder.
- 7.3 Where a tender is subject to the UK Procurement Regulations, the procurement service will adhere to the relevant standstill period.
- 7.4 If a bidder requests in writing a further debrief in relation to the award, the lead officer is responsible for providing the information to the procurement service so that the appropriate response can be provided.

8. Legal Challenge

- 8.1 If there is a formal legal challenge to the award of the contract, the officer must immediately notify the Head of Procurement.

Part 5 – Contract Formalities

1. Principles Relevant to contracts at all Values

- 1.1 Every contract should be in writing and must clearly state:

- The goods, services and/or works to be provided
- The start and end date or the means by which these are to be ascertained
- The agreed programme of delivery
- The price and terms of payment
- All other terms that are agreed e.g. insurance levels
- Exit procedures, for when the contract comes to its natural end; and
- Termination procedures for early termination of the contract, including when the Supplier has not fulfilled its contractual obligations.

1.2 The Suppliers' own terms and Conditions must not be accepted without consulting Legal Services.

2. Execution of Contracts

2.1 Contracts let under the UK Procurement Regulations may only be signed/sealed after the mandatory standstill period has elapsed without any challenge being received.

2.2 Reference to signing contracts includes by electronic signature of documents where this improves the efficiency of the council and removes the requirement for hard copy printing.

2.3 Contracts must be signed as follows:

VALUE	SIGNATURE
Up to £10,000	Any officer authorised under the Departmental Scheme of Delegation
£10,000 to Procurement Regulation Threshold	Any <u>two</u> officers authorised under the Departmental Scheme of Delegation
Above Procurement Regulation Threshold	<p>By any of the following:-</p> <ul style="list-style-type: none"> ♦ the Monitoring Officer and either the Head of Legal Services or one DCC Principal Lawyer with delegated approval by the Monitoring Officer; ♦ <u>OR Head of Legal Services and one DCC Principal Lawyer</u> with delegated approval by the Monitoring Officer <p>OR</p>

	<ul style="list-style-type: none"> ♦ <u>two</u> DCC Principal Lawyers with delegated approval by the Monitoring Officer
<p>For Agreements/Contract Order Forms awarded pursuant to a properly tendered process (Social Care and Education), for the purposes of assessing the value of an I Agreement, the cumulative value must be used and therefore a reasonable assessment of the number of years such arrangement is likely to be in place must be made in assessing value.</p>	
Up to £10,000	Any officer authorised under the Departmental Scheme of Delegation
£10,000 to £100,000	<p>By:</p> <ul style="list-style-type: none"> ♦ a relevant Head of Service <p>and</p> <ul style="list-style-type: none"> ♦ <u>one</u> officer authorised under the Departmental Scheme of Delegation.
Above £100,000	<p>By:</p> <ul style="list-style-type: none"> ♦ a relevant Director <p>and</p> <ul style="list-style-type: none"> ♦ one officer authorised under the Departmental Scheme of Delegation.

2.4 Contracts should be signed prior to commencement of services, works or delivery of goods.

2.5 The Officer signing the contract for the Council must ensure that they have the authority to do so.

2.6 All contracts submitted to Legal Services for signing or sealing must be accompanied by a completed signing/sealing request form.

3. Commencement of Contracts

3.1 No supply of goods, services or works shall commence until all contract documents have been completed.

4. Contract Register

- 4.1 The procurement service will provide access to the Contract Register of current contracts and framework agreements. The Contract Register will be published on the Council's website in accordance with Local Government Transparency Code 2015.
- 4.2 It is the officer's responsibility to ensure that details are correct and updated with any changes and/or extensions.

5. Contract Management

- 5.1 During the contract period, the officer must monitor the overall performance of the contract closely to ensure that any issues of under-performance are addressed as soon as possible and that the contract remains on budget.
- 5.2 The procurement service will provide a high-level contract governance function to ensure better strategic procurement delivery across the organisation. This is not a substitute for sound contract management and governance by the relevant officer but seeks to support and enhance that function.
- 5.3 The procurement service must have sight of the final contract and everything that has been agreed between the officer and the Supplier.
- 5.4 Where the Supplier defaults on the contract, it shall be the duty of the officer to take appropriate action and to seek advice from Legal Services when appropriate.
- 5.5 Officers shall ensure that Suppliers maintain adequate insurance for the duration of the contract period and shall verify this at appropriate intervals throughout the term.

6. Variations

- 6.1 Officers must consult with and gain the approval of Legal Services if they intend to make variations to their contracts.
- 6.2 All variations must be kept with the officer's signed copy of the contract and a copy sent to the procurement service.
- 6.3 Officers must be satisfied that they have sufficient budget to cover any variation and that the variation will achieve value for money.
- 6.4 Where a variation means that the value of the contract would exceed the Regulation threshold, or where there is a material change to the contract, the contract must be treated as a new procurement under these rules.

7. Assignments and Novations

- 7.1 Officers must contact Legal Services where it is proposed that an assignment

of novation should take place.

8. Termination of Contract

- 8.1 Officers must consult with Legal Services if they are considering early termination of their contracts.

Financial Procedure Rules

TO BE INCORPORATED PENDING APPROVAL OF UPDATED FINANCIAL PROCEDURE RULES BY COUNCIL.

TO VIEW THE EXISTING FINANCIAL PROCEDURE RULES SEE [PART 5 OF THE COUNCIL'S CURRENT CONSTITUTION](#)

We can give you this information in any other way, style or language that will help you access it. Please contact us on **01332 643643** or **[derby.gov.uk/signing-service](https://www.derby.gov.uk/signing-service)**

Punjabi

ਇਹ ਜਾਣਕਾਰੀ ਅਸੀਂ ਤੁਹਾਨੂੰ ਕਿਸੇ ਵੀ ਹੋਰ ਤਰੀਕੇ ਨਾਲ, ਕਿਸੇ ਵੀ ਹੋਰ ਰੂਪ ਜਾਂ ਬੋਲੀ ਵਿੱਚ ਦੇ ਸਕਦੇ ਹਾਂ, ਜਿਹੜੀ ਇਸ ਤੱਕ ਪਹੁੰਚ ਕਰਨ ਵਿੱਚ ਤੁਹਾਡੀ ਸਹਾਇਤਾ ਕਰ ਸਕਦੀ ਹੋਵੇ। ਕਿਰਪਾ ਕਰਕੇ ਸਾਡੇ ਨਾਲ ਇੱਥੇ ਸੰਪਰਕ ਕਰੋ: **01332 643643** ਜਾਂ **[derby.gov.uk/signing-service](https://www.derby.gov.uk/signing-service)**

Polish

Aby ułatwić Państwu dostęp do tych informacji, możemy je Państwu przekazać w innym formacie, stylu lub języku. Prosimy o kontakt: **01332 643643** lub **[derby.gov.uk/signing-service](https://www.derby.gov.uk/signing-service)**

Slovak

Túto informáciu vám môžeme poskytnúť iným spôsobom, štýlom alebo v inom jazyku, ktorý vám pomôže k jej sprístupneniu. Prosím, kontaktujte nás na tel. č.: **01332 643643** alebo na stránke **[derby.gov.uk/signing-service](https://www.derby.gov.uk/signing-service)**

Urdu

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