



Dr J Ives
Chief Executive
South Derbyshire District Council,
Civic Offices, Civic Way,
Swadlincote, Derbyshire DE11 0AH.

www.southderbyshire.gov.uk

@SDDC on Twitter

@southderbyshiredc on Facebook

Please ask for Democratic Services

Phone (01283) 595722/ 595889

Democraticservices@southderbyshire.gov.uk

Date: 08 May 2024

Dear Councillor

Council

YOU ARE HEREBY SUMMONED to attend the Annual Meeting of the **Council** to be held at **Council Chamber**, Civic Offices, Civic Way, Swadlincote on **Thursday, 16 May 2024** at **18:00** to transact the business set out on the attached agenda.

Yours faithfully,

Chief Executive

To:-

Labour Group

Councillor S Bambrick (Chair) and Councillor M Gee (Vice-Chair)

Councillors A Archer, J Carroll, S Harrison, A Haynes, I Hudson, J Jackson, A Jones, G Jones, L Mulgrew, M Mulgrew, R Pearson, D Pegg, V Redfern, G Rhind, D Shepherd, L Singh, K Storey, B Stuart, S Taylor, A Tilley, and N Tilley.

Conservative Group

Councillors N Atkin, D Corbin, M Ford, M Gotheridge, K Haines, A Kirke, J Lowe, S Meghani, D Muller and P Watson.

Liberal Democrats

Councillors G Andrew and J Davies.

Non-Grouped

Councillor A Wheelton.



AGENDA

Open to Public and Press

- 1 Apologies
- 2 To report the election of the following Member at the Melbourne By-Election held on 02 May 2024 - Councillor Matthew John Gotheridge
- 3 To confirm the Open Minutes of the Council Meeting held on:

11 April 2024 **4 - 11**
- 4 To receive any declarations of interest arising from any items on the Agenda
- 5 To appoint the Leader of the Council for the ensuing year.
- 6 To appoint the Deputy Leader of the Council for the ensuing year.
- 7 To receive any announcements from the Chair, Leader and Head of Paid Service.
- 8 To receive any questions by members of the public pursuant to Council Procedure Rule No. 10.
- 9 To receive any questions by Members of the Council pursuant to Council Procedure Rule No. 11.
In accordance with Council Procedure Rule No.11 Councillor Corbin **12 - 12**
will ask the Leader of the Council the following question
In accordance with Council Procedure Rule No.11 Councillor Corbin **13 - 13**
will ask the Leader of the Council the following question
- 10 To consider any notices of motion in order of which they have been received.
- 11 POLITICAL PROPORZIONALITY **14 - 16**

- | | | |
|-----------|---|-----------------|
| 12 | ANNUAL REPORT OF THE OVERVIEW AND SCRUTINY COMMITTEE 2023-24 | 17 - 27 |
| 13 | CYCLE OF MEETINGS 2024-25 | 28 - 30 |
| 14 | CONSTITUTION UPDATES | 31 - 103 |
| 15 | To appoint Members to serve on Committees and Sub-Committees for the ensuing year (including Chairs and Vice-Chairs), in accordance with the allocation of seats to Groups. | |
| 16 | To appoint to Substitute Panels. | |
| 17 | To appoint to or submit nominations for representatives to serve on Outside Bodies | |
| 18 | To appoint Member Champions. | |
| 19 | To appoint Chairs to the following Area Forums: • Etwall • Linton • Melbourne • Newhall • Repton • Swadlincote | |
| 20 | To appoint to Panels/Working Groups | |
| 21 | <p>The Chairman may therefore move:-</p> <p>That in accordance with Section 100 (A)(4) of the Local Government Act 1972 (as amended) the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraph of Part I of the Schedule 12A of the Act indicated in the header to each report on the Agenda.</p> | |
| 22 | To confirm the Exempt Minutes of the Council Meeting held on 11 April 2024 | |
| 23 | To receive any exempt questions by Members of the Council pursuant to Council Procedure Rule No. 11. | |

MINUTES of the COUNCIL MEETING of the
SOUTH DERBYSHIRE DISTRICT COUNCIL
held at the Civic Offices, Civic Way, Swadlincote
on Thursday 11 April 2024
at 6.00pm

PRESENT:

Councillor S Bambrick (Chair) and Councillor M Gee (Vice-Chair) and Councillors A Archer, A Haynes, I Hudson, J Jackson, A Jones, L Mulgrew, M Mulgrew, R Pearson, V Redfern, G Rhind, D Shepherd, L Singh, B Stuart, S Taylor, A Tilley and N Tilley.

Conservative Group

Councillors N Atkin, M Ford, K Haines, A Kirke, S Meghani, D Muller and P Watson.

Liberal Democrats

Councillors G Andrew and J Davies

Non-Grouped

Councillor A Wheelton

CL/136 **APOLOGIES**

Apologies for absence from the Meeting were received from Councillors: J Carroll, S Harrison, G Jones D Pegg and K Storey, (Labour Group) and Councillors: D Corbin and J Lowe (Conservative Group).

CL/137 **PRESENTATION: INSPECTOR MIKE SISMAN**

The Chief Executive welcomed Police Inspector Mike Sisman and invited him to address Council.

The Police Inspector presented an overview of Community Safety and the working partnership with the Communities Manager and teams across the Council. Council was updated on Domestic Abuse, youth engagement, shoplifting and Anti-Social Behaviour. The Police Inspector informed Council of a small increase in household burglaries and the thefts of high end cars.

The Police Inspector highlighted how Immediate Justice, a local remedy of community work had helped to reduce repeat offending of Anti-Social Behaviour and how a company called Streetwise had attended schools to work with individuals which had a positive impact in preventing Anti-Social Behaviour.

The Communities Manager addressed Council and confirmed the positive impact that multi-agency working had and how with youngsters had helped to reduce Anti-Social Behaviour.

The Police Inspector thanked officers and Members for their support during his time in South Derbyshire and added that whilst he would be moving to Head Quarters, he would still link in with the Council as it had been the best partnership in his policing career.

The Leader of the Council thanked Police Inspector Sisman for his attendance at Council and commended the successful partnership that had been due to the Police Inspector's openness and accessibility and his ability as a great communicator. The Leader of the Council congratulated the Police Inspector on the promotion and wished him every success in the future.

CL/138 **TO CONFIRM THE OPEN MINUTES OF COUNCIL MEETINGS**

The Open Minutes of the Council Meeting held on the 28 February 2024 (CL/110 - CL/132) were approved as a true record and signed by the Chair.

CL/ 139 **DECLARATIONS OF INTEREST**

Council was informed that a declaration of interest had been received from Councillor N Atkin regarding item CL/147 by virtue of being a County Councillor.

Council was informed that a declaration of interest had been received from Councillor M Ford regarding item CL/147 by virtue of being a County Councillor.

Council was informed that a declaration of interest had been received from Councillor A Haynes regarding item CL/147 by virtue of being a County Councillor.

Council was informed that a declaration of interest had been received from Councillor D Muller regarding item CL/147 by virtue of being a County Councillor.

CL/ 140 **ANNOUNCEMENTS FROM THE CHAIR**

The Chair of Council updated Members of his attendance at the Japanese School, the ATC Freedom of the District march and Erewash Civic Dinner. The Chair informed Council of the success of the Northern Soul Fundraising night and invited Members to attend the up and coming Chair's Civic Dinner.

CL/141 **ANNOUNCEMENTS FROM THE LEADER**

The Leader of the Council addressed Members and informed them of his visit along with the Chair and the Chief Executive to the Japanese School and how interesting it was to learn about Japanese culture and that he was impressed by how much the students enjoyed learning.

The Leader of the Council announced the up and coming elections on 2 May 2024 and thanked the Returning Officer and colleagues for all their hard work.

CL/142 **ANNOUNCEMENTS FROM THE HEAD OF PAID SERVICE**

The Head of Paid Service addressed Council and thanked former Councillor Martin Fitzpatrick for all his hard work. Members were urged to attend the Emergency and Disruption to Business Continuity Training on 16 April 2024. The Head of Paid Service announced that 1 April 2024 marked the 50 year anniversary of South Derbyshire District Council and that celebrations would commence with Civic Council and other events throughout the year.

CL/143 **QUESTIONS BY MEMBERS OF THE PUBLIC PURSUANT TO COUNCIL PROCEDURE RULE NO. 10**

Council was informed that no questions had been received.

CL/144 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO. 11**

In accordance with Council Procedure Rule No.11 Councillor Meghani asked the Leader of the Council the following question:

“Can the Leader of the Council please explain why so many residents in Hilton – 25 streets across the village – did not have their black bins emptied as scheduled on Monday 11 March 2024?”

The Leader of the Council thanked Councillor S Meghani for his question and informed Council that this was an operational matter and that an unprecedented level of sickness absence meant that some rounds were not covered and that any missed collections were collected the next day.

CL/145 **NOTICES OF MOTION IN ORDER OF WHICH THEY WERE RECEIVED**

Council was informed that no notices of motion had been received.

CL/146 **MEDIUM TERM FINANCIAL STRATEGY 2024/25 – 2028/29**

The Strategic Director (Corporate Resources) addressed Council and presented the report noting that the Medium Term Financial Strategy 2024/25 – 2028-29 responded to the current five year plan which without intervention would deplete reserves.

The Leader of the Council thanked the Strategic Director (Corporate Resources) for the excellent consultation process with Members which had involved all Members of the Council. The Leader of the Council commended the report and noted how the strategy gave financial stability, with a reduction in expenditure and an increase in income.

Councillor Meghani addressed Council and echoed the Leader’s comments regarding the good work and explained that as the Conservative Group had proposed an alternative budget approach the group would not be supporting the strategy.

Councillor Wheelton sought clarity regarding plans for parking and green waste charges.

The Strategic Director (Corporate Resources) explained that there were no plans to charge for parking and collection of green waste.

RESOLVED:

- 1.1 Council approved the Medium-Term Financial Strategy 2024/25 – 2028/29 as per Appendix 1 to the report.**
- 1.2 Council noted the creation of the Sustainable Finance reserve through transfer of £10.4 million from General Reserves, under existing powers delegated to the Strategic Director (Corporate Resources).**

CL/147 **DERBY AND DERBYSHIRE STRATEGIC LEADERSHIP BOARD**

The Chief Executive addressed Council and presented the report noting how the partnership board would enable councils to work together to improve outcomes for all, across Derbyshire and would give South Derbyshire District Council a voice when the Mayoral Combined Authority was created.

The Leader of the Council commended the report and how the partnership board would be a shared voice in the Mayoral Combined Authority and would not be a loss of governance.

RESOLVED:

- 1.1 Council approved the establishment of the Derby and Derbyshire Strategic Leadership Board as a Joint Committee of the Council.**
- 1.2 Council approved that none of the Council's functions would be delegated to the Joint Committee.**
- 1.3 Council noted the Terms of Reference, Functions and Responsibilities, Procedural Rules and Information Procedure Rules for the Strategic Leadership Board as set out at Appendix 3 to the report.**
- 1.4 Council appointed the Leader of the Council as the Council's representative on the Derby and Derbyshire Strategic Leadership Board and the Deputy Leader of the Council as a Substitute.**
- 1.5 Council noted the intention that the Derby and Derbyshire Strategic Leadership Board be the body for the nomination of District and Borough representatives to the East Midlands Combined County Authority, when established.**
- 1.6 Council noted that Derbyshire County Council would act as the host authority for the Joint Committee.**

- 1.7 Council noted the dissolution of the Derby and Derbyshire Joint Committee for Economic Prosperity.**
- 1.8 Council noted the transfer of the remaining funds and responsibilities for the Business Rate Retention pooled funds currently held by the Derby and Derbyshire Joint Committee for Economic Prosperity to the Derby and Derbyshire Strategic Leadership Board.**
- 1.9 Council noted the dissolution of the Vision Derbyshire Joint Committee.**
- 1.10 Council noted the dissolution of the Derbyshire Economic Partnership and noted that the Council's existing financial contribution to that body would cease.**
- 1.11 Council approved South Derbyshire District Council's active participation in the Derby and Derbyshire Strategic Leadership Board together with an annual contribution of £15,000.**

CL/148 **PAY POLICY STATEMENT 2024/2025**

The Strategic Director (Corporate Resources) presented the report and pointed out an error in the covering report, where the figures had been entered against the wrong pay multiple at points 3.2 and 3.3 and that at 3.2 the comparison year should read 2023/2024 and not 2022/23. The Pay Policy Statement itself was correct.

Members considered the report and supported the officer's recommendation.

RESOLVED:

- 1.1 Council approved the Pay Policy Statement, for the financial year 2024/2025, for publication.**

CL/149 **HOUSING CONSUMER STANDARDS**

The Strategic Director (Service Delivery) addressed Council and presented the report. It was explained that at point 4.2 within the report, the four area ratings fell short due to a stock survey and consumer engagement and that the proposed Housing Services Working Group would provide an update to the Housing and Communities Committee in April 2024.

Councillor Rhind supported the report and welcomed the formation of the working group but noted the disappointment of not meeting the government's deadline.

Councillor Wheelton sought clarity as to why there was no update report prior to the deadline of 01 April 2024.

The Strategic Director (Service Delivery) addressed Council and explained that officers had been working through the process and were probably a bit ambitious given the deadline.

RESOLVED:

- 1.1 Council approved that the Regulator for Social Housing be advised of the outcome of South Derbyshire District Council's self-assessment against the Housing Consumer Standards.**
- 1.2 Council approved that south Derbyshire District Council made a self-referral for non-compliance with the Housing Consumer Standards, along with a request of a 12 month extension to meet the required standards.**
- 1.3 Council approved the formation and appointment of Member representatives to a Housing Services Working Group and approved the Terms of Reference of the Group as detailed in Appendix 1 to the report.**
- 1.4 Council approved that the Performance Improvement Plan, agreed by the Housing Services Working Group, be reported to the Housing and Community Services Committee, with regular updates on progression of the Plan.**

CL/150 **DRAFT CYCLE OF MEETINGS 2024-25**

Councillor Shepherd proposed that the Planning Committee meetings be amended to include a three weekly cycle of meetings for a twelve month period.

RESOLVED:

- 1.1 That the Draft Cycle of Meetings 2024/25 be deferred so that it could be amended to include a 3 weekly cycle of Planning Committees for a 12 month period and then revert back to the 4 weekly cycle as approved by Environmental and Services Committee.**

CL/151 **OPEN MINUTES:**

Council received and considered the open minutes of the following Committees.

| Committee | Date | Minutes Nos |
|--|------------------|--------------------|
| Housing and Community Services | 01 February 2024 | HCS/63 – HCS/76 |
| Finance and Management | 15 February 2024 | FM/91– FM/102 |
| Environmental and Development Services | 29 February 2024 | EDS/80 – EDS/88 |
| Planning | 05 March 2024 | PL/180 – PL/194 |
| Housing and Community Services Committee | 07 March 2024 | HCS/85 – HCS/93 |

| | | |
|-------------------------------------|---------------|-----------------|
| Licensing and Appeals Sub-Committee | 12 March 2024 | LAS/39 – LAS/41 |
| Finance and Management Committee | 14 March 2024 | FM/110 – FM/122 |
| Planning (Extraordinary) | 19 March 2024 | PL/197 – PL/209 |

RESOLVED:

That the Open Minutes of the above mentioned Committees were approved as a true record.

CL/152 **APPOINTMENT OF COMMITTEES, SUB-COMMITTEES AND WORKING PANELS 2023/24**

Members reviewed the composition of Committees, Sub-Committees and Working Panels 2023/24.

RESOLVED:

Council was informed no amendments were to be made.

CL/153 **COMPOSITION OF SUBSTITUTE PANELS**

Members reviewed the composition of the Substitute Panels 2023/24.

RESOLVED:

Council was informed no amendments were to be made.

CL/154 **APPOINTMENT OF REPRESENTATIVES ON OUTSIDE BODIES 2023/24**

Members reviewed the Outside Bodies representation list 2023/24

RESOLVED:

Council was informed that no amendments were to be made.

CL/155 **APPOINTMENT OF MEMBER CHAMPIONS**

Members reviewed the Representation of Member Champions.

RESOLVED:

Council was informed no amendments were to be made.

CL/156 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT [ACCESS TO INFORMATION] ACT 1985)**

RESOLVED:

That in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended) the press and public be excluded from the remainder

of the Meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined under the paragraphs of Part 1 of Schedule 12A of the Act as indicated in the reports of Committees.

EXEMPT MINUTES OF THE COUNCIL

The Exempt Minutes of the Council Meeting held on 28 February 2024 (CL/133 - CL/135) were approved as a true record.

EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NUMBER 11

Council was informed that no questions had been received.

EXEMPT MINUTES

Council received and considered the Exempt Minutes of its Committees.

| <i>Committee</i> | <i>Date</i> | <i>Minutes Nos</i> |
|--|--------------------------------|-------------------------------|
| <i>Housing and Community Services Committee</i> | <i>01 February 2024</i> | <i>HCS/77 - HCS/84</i> |
| <i>Finance and Management Committee</i> | <i>15 February 2024</i> | <i>FM/103 – FM/109</i> |
| <i>Environmental and Development Services Committee</i> | <i>29 February 2024</i> | <i>EDS/8 – HCS/90</i> |
| <i>Planning</i> | <i>05 March 2024</i> | <i>PL/195 – PL/197</i> |
| <i>Housing and Community Services Committee</i> | <i>07 March 2024</i> | <i>HCS/94– HCS/98</i> |
| <i>Licensing and Appeals Sub-Committee</i> | <i>12 March 2024</i> | <i>LAS/42</i> |
| <i>Finance and Management Committee</i> | <i>14 March 2024</i> | <i>FM/123 – FM/126</i> |

The meeting terminated at 19:00hours.

COUNCILLOR S BAMBRICK

CHAIR OF THE DISTRICT COUNCIL

In accordance with Council Procedure Rule No.11 Councillor Corbin will ask the Leader of the Council the following question:

“Please can the Leader explain how and why the Conservative vote against the council plan was circulated in a document for Let’s Connect March 2024 was misrepresented by him as a unanimous vote for the council plan under the section for the Leader? This is taking liberties under the Leaders name with democracy.”

In accordance with Council Procedure Rule No.11 Councillor Corbin will ask the Leader of the Council the following question:

“The Conservative Party have received complaints from Hatton Parish Council about the lack of attendance and support at Parish Council meetings from the member for Hatton. I am aware that the Leader has had an email from a party colleague, a DCC member, asking him to address this issue - yet hasn't. The complaints still come forwards despite this due to lack of attendance with no action taken. My understanding is that the member for Hatton has attended parish council once since the May 2023 elections. I am further aware that the Clerk for Hatton Parish has also addressed these issues to the leader and still nothing has changed. It has been brought to my attention that the member may live and/or work in London.

Attendance at Parish Councils is something we have to deliver in our roles as elected members at SDDC, and whilst some have to be missed and apologies given this should not be the regular occurrence. If we cannot support the wards we are elected to and the residents living there, why would we stand for election?

Can the Leader clarify the area of residence for the member for Hatton and also clarify why this situation with no support to the Hatton Parish Council or residents of Hatton has arisen and why no action has been taken to rectify this despite the communications he has received? “

| | | |
|--------------------------------|---|-------------------------------|
| REPORT TO: | ANNUAL COUNCIL | AGENDA ITEM: 11 |
| DATE OF MEETING: | 16 MAY 2024 | CATEGORY: DELEGATED |
| REPORT FROM: | MONITORING OFFICER | OPEN PARAGRAPH NO: N/A |
| MEMBERS' CONTACT POINT: | ARDIP SANDHU Ardip.Sandhu@southderbyshire.gov.uk | DOC: |
| SUBJECT: | POLITICAL PROPORTIONALITY | REF: |
| WARD(S) AFFECTED: | ALL | |

1.0 Recommendations

- 1.1 That Council approves and adopts the recommended allocation of seats to the Political Groups and Non-Grouped Member for the municipal year 2024/25.
- 1.2 That the Council allocates seats between the Political Groups and Non-Grouped Member as set out at Annexe 'A' and invites Group Leaders and the Non-Grouped Member to make nominations to fill the seats.

2.0 Purpose of Report

- 2.1 To consider the Council's political proportionality for municipal year 2024/25.

3.0 Detail

- 3.1 The Council's duty to determine the allocation of seats is prescribed by Section 15 of the Local Government and Housing Act 1989 ("the Act") (specifically subsections (3) to (5) as modified by The Local Government (Committees and Political Groups) Regulations 1990 ("the Regs")). A Political Group is defined as being constituted by at least two Members who have advised the proper officer of the local authority in writing that they wish to be treated as a Political Group.

- 3.2 The political composition of the Council is as follows:-

- Labour Group 23
- Conservative Group 10
- Liberal Democrats 2
- Non - Grouped 1

- 3.3 The Council is required to review the representation of the different political groups on Committees and Sub-Committees at, or as soon as practicable after, the Annual Meeting of the Council; or where notice is received of a change in the composition of Political Groups.

3.4 The principles of determination are as follows:-

- (a) All the seats are not allocated to the same Group;
- (b) The majority of the seats go to the Group (if any) which has an overall majority on the Council;
- (c) Subject to the above two principles, that the number of seats on the total of all the ordinary Committees allocated to each Group bears the same proportion to the proportion on the Full Council.

3.5 The total number of Committee seats on the District Council for allocation is 98. After calculating the proportionality for the three Groups, and the Non-Grouped Member, this gives 63 seats to the Labour Group, 27 seats to the Conservative Group, 5 seats to the Liberal Democrats Group and 3 seats to the Non-Grouped Member, as indicated on the schedule attached at Annexe 'A'.

4.0 Financial Implications

4.1 None.

5.0 Corporate Implications

5.1 The rules on political balance are covered by Sections 15 and 16 of the Local Government and Housing Act 1989 and by The Local Government (Committees and Political Groups) Regulations 1990.

6.0 Community Implications

6.1 None.

7.0 Background Papers

7.1 Local Government and Housing Act 1989
The Local Government (Committees and Political Groups) Regulations 1990

Annex 'A'

Political Proportionality 2024/25

| Committee | Membership | Labour Group | Conservative Group | Non - Grouped | Liberal Democrats |
|--------------------------------------|-------------------|---------------------|---------------------------|----------------------|--------------------------|
| Finance & Management | 13 | 8 (8.3) | 4 (3.6) | 0 (0.4) | 1 (0.7) |
| Environmental & Development Services | 13 | 8 (8.3) | 3 (3.6) | 1 (0.4) | 1 (0.7) |
| Housing & Community Services | 13 | 9 (8.3) | 3 (3.6) | 0 (0.4) | 1 (0.7) |
| Planning | 13 | 8 (8.3) | 3 (3.6) | 1 (0.4) | 1 (0.7) |
| Licensing & Appeals | 15 | 10 (9.6) | 4 (4.2) | 0 (0.4) | 1 (0.8) |
| Overview & Scrutiny | 8 | 5 (5.1) | 3 (2.2) | 0 (0.2) | 0 (0.4) |
| Standards | 6 | 4 (3.8) | 2 (1.7) | 0 (0.2) | 0 (0.3) |
| Joint Consultative | 5 | 3 (3.2) | 2 (1.4) | 0 (0.1) | 0 (0.3) |
| Etwell JMC | 3 | 2 (1.9) | 1 (0.8) | 0 (0.1) | 0 (0.1) |
| Audit Sub | 5 | 3 (3.2) | 1 (1.4) | 1 (0.1) | 0 (0.3) |
| Heritage Grants Sub | 4 | 3 (2.6) | 1 (1.1) | 0 (0.1) | 0 (0.2) |
| Seats available for allocation | 98 | 63 (62.6) | 27 (27.2) | 3 (2.7) | 5 (5.4) |
| Total number of seats on Council | 36 (100%) | 23 (63.9%) | 10 (27.8%) | 1 (2.8%) | 2 (5.6%) |

| | | |
|-------------------------|---|-------------------------|
| REPORT TO: | ANNUAL COUNCIL | AGENDA ITEM:12 |
| DATE OF MEETING: | 16 MAY 2024 | CATEGORY: DELEGATED |
| REPORT FROM: | CHIEF EXECUTIVE | OPEN |
| MEMBERS' CONTACT POINT: | DEMOCRATIC SERVICES 01283 59 5848/5722 democraticservices@southderbyshire.gov.uk | DOC: |
| SUBJECT: | ANNUAL REPORT OF THE OVERVIEW AND SCRUTINY COMMITTEE 2023-24 | REF: |
| WARD(S) AFFECTED: | ALL | TERMS OF REFERENCE: N/A |

1.0 Recommendation

1.1 That Council receives the Annual Report of the Overview and Scrutiny Committee for 2023/24

2.0 Purpose of Report

2.1 To submit the Annual Report of the Overview and Scrutiny Committee for 2023/24.

3.0 Detail

3.1 A copy of the Overview and Scrutiny Committee's Annual Report for 2023/24 is attached at Annexe A.

4.0 Financial / Corporate / Community Implications

4.1 None.

5.0 Background Papers

5.1 Annual Report 2023/23.

Overview and Scrutiny Committee Annual Report 2023/24

CONTENTS

Acknowledgement

1. Background

1.1 Purpose of the report

1.2 Composition of the Overview and Scrutiny Committee

1.3 Main Purposes of Overview and Scrutiny Committee

1.4 Functions of Overview and Scrutiny Committee

1.5 Meetings

1.6 Call-In of Policy Committee Decisions

1.7 Member Requests

2. Specific Areas of Activity and Achievements

2.1 The Annual Report

2.2 Setting the Committee Work Programme

3. Challenges for 2024/25

Acknowledgements

I am pleased to present this year's Overview and Scrutiny Annual Report, which contains information about the Committee's activity over the past year.

It has been a demanding year for the Council which continues to face challenges in delivering services to the residents of South Derbyshire. The Overview and Scrutiny Committee has been tasked with analysing and monitoring services in order to provide constructive feedback to increase efficiency as well as, where possible, reduce costs.

This Annual Report demonstrates the wide range of issues that have been considered within the scrutiny process and providing committee members the opportunity to select areas to review. It has also been noted that the Overview and Scrutiny Committee's interest in a number of work programme areas has inspired action aimed at improving key services elsewhere in the Council's democratic structure.

The Overview and Scrutiny Committee recognises and appreciates the valuable contributions that Elected Members, Officers and representatives of organisations have made towards its work, and acknowledges that without this support and co-operation, it could not fulfil its aim to improve services for the benefit of South Derbyshire residents.

Councillor Sean Bambrick
Chair of the Overview & Scrutiny Committee

1. **Background**

1.1 **Purpose of the Report**

This is the Annual Report to Council from Overview and Scrutiny, as required by Article 6 of the Council's Constitution.

Overview and Scrutiny plays an important part in local government decision-making and is a principal way of achieving open, democratic accountability for the provision of public services. The aim of Overview and Scrutiny is to improve public services and quality of life for local residents. Its main value is in holding the Council and other service providers to account, monitoring performance and in its capacity to inform and influence the actions of the Council and its partners. Overview and Scrutiny is a legal requirement, introduced by the Local Government Act 2000, extended in later legislation, and consolidated in the Localism Act of 2011. Overview and Scrutiny allows Councillors to examine, question and evaluate various functions of the Council and other providers of public services on behalf of the public in an open and effective way.

The report outlines how the Overview and Scrutiny Committee has discharged its functions during the municipal year 2023/24 and details the current position and outcomes of its activities.

1.2 **Composition of Overview and Scrutiny Committee**

From May 2023 until June 2023, the Committee consisted of eight Members: five Members of the Labour Group, two Members of the Conservative Group and one vacancy in accordance with the political balance of the Council.

For the period of May 2023 to June 2023 the following Members were appointed to the Committee:

Labour Group

Councillor S Bambrick (Chair), Councillor M Gee (Vice-Chair),
Councillor A Jones, Councillor G Jones and Councillor L Mulgrew

Conservative Group

Councillor Atkin and Councillor Lowe.

From June 2023 until May 2024, the Committee consisted of eight Members: five Members of the Labour Group and three Members of the Conservative Group in accordance with the political balance of the Council.

For the period of June 2023 to May 2024, the following Members were appointed to the Committee:

Labour Group

Councillor S Bambrick (Chair), Councillor M Gee (Vice-Chair)
Councillor A Jones, Councillor G Jones and Councillor L Mulgrew.

Conservative Group

Councillor N Atkin, Councillor A Kirke and Councillor D Muller.

1.3 Main Purposes of Overview and Scrutiny Committee

The main purposes of the Committee are as follows:

- (a) Write reports and/or make recommendations to Council, Policy Committees or Area Forums in connection with the formulation of policy and the discharge of any functions.
- (b) Consider any matter affecting the District or its residents.
- (c) Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions.
- (d) Exercise the Call-In procedure in respect of decisions made, but not yet implemented, by any Policy Committee or Area Forum.
- (e) Oversee the appropriate processes and report findings to the relevant Policy Committee.

1.4 Functions of Overview and Scrutiny Committee

- (a) Holding the Council and its statutory partners to account in the public interest, enabling transparent and effective decision-making. This includes the power to 'call-in' a decision made by any policy committee that has not yet been implemented. (See 1.6)
- (b) Supporting effective policies and initiatives, which have a beneficial impact on the community through policy review and development.
- (c) Contributing to continuous improvement in services through monitoring quarterly departmental performance reports and the implementation of improvement plans.
- (d) Having a positive impact on the work and outcomes of external agencies and providers of public services.
- (e) Aiding Councillors in engaging with their communities and playing the role of community representatives and leaders.

1.5 Meetings

The Overview and Scrutiny Committee usually meets every six weeks, on Wednesday evenings at the Council's Civic Offices. In order to engage on a more direct level with residents, meetings can also be taken out into the community. Meetings are held in Open session unless there are Exempt items for consideration by the Committee.

Additional task groups can be set-up to undertake work on the Committee's behalf, which usually happens when there is a need to review a topic in greater depth.

1.6 Call-In of Policy Committee Decisions

The Overview and Scrutiny Committee has the power to determine 'call-in' requests of any policy committee decision made but not implemented. During the year 2023/24 the Committee was not required to deal with any 'called in' decisions or requests from Policy Committees for specific investigations.

1.7 Member Requests

Any Member of the Council is able to request an item, relevant to the functions of the Committee, to be included in the Work Programme for review. During the 2023/24 municipal year the Chair and Members requested that Section 106 Funding Agreement pertaining to education be added to the Work Programme.

2. Specific Areas of Activity

2.1 The Annual Report

In May 2024, the Chair and Vice-Chair considered the draft Annual Report for the 2023/24 municipal year, which looks at each of the priorities in turn and provides an overview of some of the outcomes achieved by the Committee and how it has discharged its function throughout the year.

2.2 Setting the Committee Work Programme

In June 2023 the Committee outlined suggestions and agreed possible issues to form the basis of its Work Programme during the remainder of the municipal year. Members considered a range of potential areas for the Committee to review and the specific focus of their attention.

The key areas identified were:

- (a) Regulation of Investigatory Powers Act (RIPA) 2000
- (b) Housing Repairs and Maintenance Contractor
- (c) Budget Setting Approach 2024/25
- (d) Section 106 Agreement Funding
- (e) Housing Re-Lets and Void Properties - Update
- (f) East Midlands Airport Update
- (g) Community Buildings
- (h) Consolidated Draft Budget 24/25 and Medium Term Financial Plan

A short summary of the Committee's work during the year is set out below.

(a) Regulation of Investigatory Powers Act 2000 (RIPA)

The Committee has a standing function to monitor the Council's use of Regulation of Investigatory Powers (RIPA) on a quarterly basis, following the Council's Inspection by the Office of Surveillance Commissioners. The Committee noted the Council's use of Regulation of Investigatory Powers Act 2000 Policy and Guidance during the municipal year 2023/24

(a) Housing Repairs and Maintenance Contractor

In February 2024 the Interim Head of Housing provided a verbal update of the Housing Repairs and Maintenance Contractor and noted the importance of retaining knowledge and leadership in the department. The Committee was updated regarding the Housing Revenue Account and current and future housing stock.

(b) Budget Setting Approach 2024/25

In October 2023 the Head of Finance presented a report to the Committee outlining the key principles of the new approach and highlighted that it would be service led budgets to help Members make decisions and reduce the number of ad-hoc requests.

(c) Section 106 Funding Agreement

In August 2023 the Committee requested that the Section 106 Funds report cover the expenditure of funds by third parties and that colleagues from health should be invited to the meeting to cover the obstacles to spending funds.

In October 2023 the Head of Planning and Strategic Housing presented a report to the Committee and two representative of the Integrated Care Board attended the meeting.

Members raised queries regarding many aspects of the Integrated Care Board's policies and procedures.

The Committee was advised by the representatives how Section 106 Agreement Funding could be used by General Practitioners to invest in buildings, refurbishment, extensions some equipment and consumables. The Committee was informed that there was a formula for calculating the number of residents that each practice could accommodate and explained that satellite sites were becoming difficult to staff. The representatives explained that when Section 106 Agreement Funding for Healthcare provision had been allocated it would be included in the Local Plan and the General Practitioner would engage with architects to design buildings based on a calculation which determined the amount of space required.

(d) Housing Re-Lets and Void Properties

The Head of Housing presented a verbal update in August 2023. highlighting the progress since the start of a second contractor in April 2023.

Members raised queries regarding guidance for refugees and asylum seekers, the length of the contract for the repairs contractor, the database records, apprenticeships, the status of difficult to let properties and issues with mould and asbestos.

The Head of Housing informed the Committee that the Council was awaiting advice from the government regarding refugees leaving hotel accommodation. The Committee was advised mould in empty properties was easy to spot and that damp proof courses would be installed in many properties. Asbestos was covered by a new regulation framework which included checks for gas and asbestos.

The Committee was informed that the Housing database system had to comply with the Housing Regulator on all levels. The contract length for the second contractor company had been extended for three years. There would be opportunities for two property support apprentices plus work experience for locally based young people.

The Head of Housing informed the Committee that hard to let properties included properties identified for older people which were not fit the necessary requirements such as those with second floors.

In February 2024 the Asset and Improvement Manager provided an update on the status of Void Properties in the District and confirmed that a full report would be presented to the Housing and Community Services Committee on 07 March 2024.

(e) East Midlands Airport Update

In April 2024 representatives from East Midland's Airport attended a Committee meeting and delivered a presentation that included, information regarding new UK security regulations, the East Midlands Airport Community Fund, Low Carbon-Energy Fund, the monitoring of where and how aircraft fly, a Noise Action Plan 2024-2028 and a national picture of future airspace.

(f) Community Buildings

This item was deferred to the next cycle of meetings on the 2024/25 Work Programme.

(i) Consolidated Draft Budget 24/25 and Medium Term Financial Plan

The Strategic Director (Corporate Resources) presented the report to the Committee highlighting the forecast for the General Fund, the Housing Revenue Account and the Capital Programme and noted that a final report would be prepared for the Finance and Management Committee on 15 February 2024 before being presented to Full Council on 28 February 2024.

Members sought clarification on several points in the report.

The Strategic Director (Corporate Resources) addressed the points raised by Members that included how budgeting techniques complied with the financial management practices and prescribed best practice code developed in line with the Chartered Institute of Public Finance and Accountancy (CIPFA). It was confirmed that the report indicated the draft position for business rates and that the statutory deadline for setting new rates was the end of January and that there was no concern from the Head of Customer Services regarding staffing levels to cover the collection of Council Tax arrears.

The Strategic Director (Corporate Resources) informed Members that reserves used to close the budget gap would not be used for recurring and that reports for the Fleet Replacement Plan and Concurrent Functions would be presented at future meetings of the Environmental and Development Services and the Finance and Management Committee respectively.

Members requested that improvement costs for Rosliston Forestry Centre be considered for inclusion on the Committee's Work Programme for 2024/25.

In March 2024 the Head of Finance presented a report to the Committee regarding the Medium Term Financial Strategy 2024/25 – 2028/29.

(j) Section 106 Funding Agreement – Education Contributions

Due to the unavailability of representatives from Derbyshire County Council this item was deferred to the next cycle of meetings on the 2024/25 Work Programme.

3 Challenges for 2024-25

- To build on, and update, the achievements of Overview and Scrutiny.
- To ensure that Overview and Scrutiny continues to make a positive contribution to the development of policy and the continuous improvement of the Council's operations.
- To continue to ensure the Overview and Scrutiny work programme reflects concerns of service users, community and the public.
- To continue to ensure Overview and Scrutiny works with the community and key partners to respond to local concerns.
- To continue to ensure that the work of Overview and Scrutiny has a positive effect on decision-makers and provides evidence that it has made a real difference.
- To ensure Overview and Scrutiny takes a more active, appropriate role in respect of the work of the Policy Committees and their decisions.

- To balance the focus of the Overview and Scrutiny Committee both inward on existing and proposed Council services, and outward to other areas of the community and partner organisations.
- To build on the existing scoping procedure to make it more robust, to ensure the original scope is used as a point of reference for each work programme item and a tool to measure progress and the value being added by the committee as it completes its work.

Chair, Vice-Chair and Members of the Overview and Scrutiny Committee
May 2024

DRAFT

| | | |
|-------------------------|---|---------------------|
| REPORT TO: | ANNUAL COUNCIL | AGENDA ITEM:13 |
| DATE OF MEETING: | 16 MAY 2024 | CATEGORY: DELEGATED |
| REPORT FROM: | CHIEF EXECUTIVE | OPEN |
| MEMBERS' CONTACT POINT: | ARDIP SANDHU (ext.5715) Ardip.sandhu@southderbyshire.gov.uk | DOC: |
| SUBJECT: | CYCLE OF MEETINGS 2024-25 | REF: |
| WARD(S) AFFECTED: | ALL | |

1.0 Recommendations

1.1 That, in accordance with Council Procedure Rule No. 1.1 (g) of the Council's Constitution, the cycle of Council and Committee meetings for 2024/25 (**Appendix A** to this report) be approved.

2.0 Purpose of Report/Detail

2.1 To consider the cycle of Council and Committee meetings for 2024/25 attached at **Appendix A**.

3.0 Financial Implications

3.1 None.

4.0 Corporate Implications

4.1 None.

5.0 Community Implications

5.1 None.

6.0 Background Papers

6.1 None.

COMMITTEE AND COUNCIL MEETINGS 2024-25

| Committee | Day | Date |
|---|-----------------|-----------------|
| ANNUAL COUNCIL | Thursday | 16.05.24 |
| CIVIC COUNCIL | Thursday | 23.05.24 |
| Planning | Tuesday | 28.05.24 |
| Environmental & Development Services | Thursday | 30.05.24 |
| Housing & Community Services | Thursday | 06.06.24 |
| Overview & Scrutiny | Wednesday | 12.06.24 |
| Planning | Tuesday | 18.06.24 |
| Audit Sub-Committee | Wednesday | 19.06.24 |
| Finance & Management | Thursday | 20.06.24 |
| COUNCIL | Thursday | 27.06.24 |
| Etwall JMC | Wednesday | 03.07.24 |
| Planning | Tuesday | 09.07.24 |
| Planning | Tuesday | 30.07.24 |
| Environmental & Development Services | Thursday | 08.08.24 |
| Housing & Community Services | Thursday | 15.08.24 |
| Planning | Tuesday | 20.08.24 |
| Overview & Scrutiny | Wednesday | 28.08.24 |
| Audit Sub-Committee | Wednesday | 04.09.24 |
| Finance & Management | Thursday | 05.09.24 |
| Planning | Tuesday | 10.09.24 |
| COUNCIL | Thursday | 12.09.24 |
| Environmental & Development Services | Thursday | 19.09.24 |
| Etwall JMC | Wednesday | 25.09.24 |
| Housing & Community Services | Thursday | 26.09.24 |
| Planning | Tuesday | 01.10.24 |
| Finance & Management | Thursday | 03.10.24 |
| Overview & Scrutiny | Wednesday | 09.10.24 |
| Audit Sub-Committee (Special - Accounts) – | Wednesday | 16.10.24 |
| Planning | Tuesday | 22.10.24 |
| COUNCIL | Thursday | 31.10.24 |
| Environmental & Development Services | Thursday | 07.11.24 |
| Planning | Tuesday | 12.11.24 |
| Housing & Community Services | Thursday | 14.11.24 |
| Overview & Scrutiny | Wednesday | 20.11.24 |
| Finance & Management | Thursday | 21.11.24 |
| Planning | Tuesday | 03.12.24 |
| Audit Sub-Committee | Wednesday | 04.12.24 |
| Environmental & Development Services (Special - Budget) | Thursday | 02.01.25 |
| Housing & Community Services (Special – Budget) | Monday | 06.01.25 |
| Planning | Tuesday | 07.01.25 |
| Etwall JMC | Wednesday | 08.01.25 |
| Finance & Management (Special – Budget) | Thursday | 09.01.25 |
| Overview & Scrutiny | Wednesday | 15.01.25 |

COMMITTEE AND COUNCIL MEETINGS 2024-25

| | | |
|--------------------------------------|-----------------|-----------------|
| COUNCIL | Thursday | 16.01.25 |
| | | |
| Environmental & Development Services | Thursday | 23.01.25 |
| Planning | Tuesday | 28.01.25 |
| Housing & Community Services | Thursday | 30.01.25 |
| Overview & Scrutiny | Wednesday | 05.02.25 |
| Finance & Management | Thursday | 06.02.25 |
| Planning | Tuesday | 18.02.25 |
| COUNCIL | Thursday | 27.02.25 |
| | | |
| | | |
| Audit Sub-Committee | Wednesday | 05.03.25 |
| Environmental & Development Services | Thursday | 06.03.25 |
| Planning | Tuesday | 11.03.25 |
| Housing & Community Services | Thursday | 13.03.25 |
| Finance & Management | Thursday | 20.03.25 |
| Planning | Tuesday | 01.04.25 |
| Overview & Scrutiny | Wednesday | 09.04.25 |
| COUNCIL | Thursday | 10.04.25 |
| | | |
| Environmental & Development Services | Tuesday | 15.04.25 |
| Housing & Community Services | Thursday | 17.04.25 |
| Planning | Tuesday | 22.04.25 |
| Etwall JMC | Wednesday | 23.04.25 |
| Finance & Management | Thursday | 24.04.25 |
| | | |
| | | |
| ANNUAL COUNCIL | Thursday | 15.05.25 |
| CIVIC COUNCIL | Thursday | 22.05.25 |

| | | |
|--------------------------------|---|----------------------------|
| REPORT TO: | ANNUAL COUNCIL | AGENDA ITEM: |
| DATE OF MEETING: | 16 MAY 2024 | CATEGORY: DELEGATED |
| REPORT FROM: | MONITORING OFFICER | OPEN |
| MEMBERS' CONTACT POINT: | ARDIP SANDHU Ardip.Sandhu@southderbyshire.gov.uk | DOC: |
| SUBJECT: | CONSTITUTION UPDATES | REF: |
| WARD(S) AFFECTED: | ALL | |

1.0 Recommendations

1.1 That, the following amended Articles of the Constitution are approved to form Part 2 of the Council's Constitution.

- Article 3 – Citizens and the Council (Appendix 1)
- Article 4 – Full Council (Appendix 2)
- Article 8A – The Standards Sub-Committee (Appendix 3)
- Article 10 – Joint Arrangements (Appendix 4)
- Article 11 – Officers (Appendix 5)
- Article 13 – Finance, Contracts and Legal Matters (Appendix 6)
- Article 15 – Suspension, Interpretation and Publication of the Constitution (Appendix 7)

1.2 That the updated Council Procedure Rules are approved and adopted into Part 4 of the Council's Constitution (Appendix 8)

1.2 That, in accordance with Council Procedure Rule No. 1.1 (f) of the Council's Constitution Council approve the amended Scheme of Delegation, to form Part 3 of the Council's Constitution (Appendix 9).

1.3 That the updated Contract Procedure Rules, are approved and adopted into Part 4 of the Council's Constitution (Appendix 10).

2.0 Purpose of Report

2.1 To consider the amended documents to the Council's Constitution.

3.0 Detail

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

3.2 The Constitution is divided into 15 Articles which set out the basic rules governing the Council's business. It also includes more detailed procedures and codes of practice which are provided in separate rules and protocols in Parts 4 and 5 of the Constitution.

- 3.2 The documents for approval have been updated to include updated working practices as well as amendments to service responsibility, job roles and/or titles following the Chief Executive's recent restructure.
- 3.3 The Contract Procedure Rules have been updated to incorporate amended procurement thresholds.
- 3.4 Other changes to the scheme relate to updates in service provision and/or legislative requirements/amendments.

4.0 Financial Implications

- 4.1 None directly arising from this report.

5.0 Corporate Implications

- 5.1 The revised Scheme of Delegation will provide a clear and effective resource within the Council's Constitution, to identify those powers delegated to officers, and to provide clear guidance on how the exercise of those powers is to be limited or qualified to ensure Members are appropriately involved in the Council's decision-making processes.

6.0 Community Implications

- 6.1 None arising directly from this report.

7.0 Background Papers

- 7.1 None.

Article 3 – Citizens and The Council

3.01 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 4 of this Constitution:

(a) Voting and petitions

Citizens on the electoral roll for the District have the right to vote in elections for Members of the Council and to sign a petition to request a referendum for an elected mayor form of Constitution.

(b) Information

Citizens have the right to:

- (i) attend meetings of Full Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) see reports and background papers, and any records of decisions made by the Council and Policy Committees as detailed in the Access to Information Procedure Rules set out in Part 4 of this Constitution; and
- (iii) inspect the Council's Accounts and make their views known to the External Auditor.

(c) Participation

Citizens have the right to participate in Full Council and Committee¹ question times and contribute to investigations by the Overview and Scrutiny Committee.

(d) Complaints

Citizens have the right to complain to:

- (i) the Council itself under its complaints procedure;
- (ii) the Local Government Ombudsman after using the Council's own complaints procedure;
- (iii) the ~~Standards Committee Monitoring Officer~~ about a breach of the Members' Code of Conduct.

3.02 Citizens' responsibilities

Citizens must not be violent, abusing or threatening to Councillors or Officers and must not wilfully harm things owned by the Council, Councillors or Officers.

¹ Except Planning Committee. Separate rules governing public question time for this Committee are in place.

Article 4 – Full Council

4.01 Meanings

(a) Policy Framework

The Policy Framework means the following plans and strategies:-

- (i) Best Value Performance Plan;
- (ii) Capital Strategy;
- (iii) Community Strategy;
- (iv) Crime and Disorder Reduction Strategy;
- (v) Plans and strategies which together comprise the Development Plan;
- (vi) Corporate Plan;
- (vii) The plan and strategy which comprise the Housing Investment Programme.

(b) Budget

The Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

(c) Housing Land Transfer

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.

4.02 Functions of Full Council

Only Full Council will exercise the following functions:

1. To represent the views of the local community on matters of significance;
2. To adopt the Council's Constitution and agree any changes made to it unless the power to make changes has been delegated by Full Council;
3. To adopt the Council's Members' Code of Conduct and any changes to it;
4. To approve and adopt the Council's Policy Framework with or without

amendment or refer it back to the relevant Policy Committee for reconsideration;

5. To approve and adopt the Council's Revenue Budget (General Fund and Housing Revenue Account);
6. To approve and adopt the Council's Capital programme (General Fund & Housing);
7. To determine the matters set out in Section 67(2) of the Local Government Finance Act 1992 being determinations as to discounts or liability in prescribed cases and the setting of the Council Tax;
8. To determine or vary the Council's overall borrowing limit (Section 45(1) and (3) of the Local Government and Housing Act 1989);
9. To adopt a Members' Allowances Scheme under Article 2.05, including the amount of any allowances payable pursuant to such a scheme or the rates at which payments by way of any such allowances are to be made;
10. To approve any application to the Secretary of State in respect of any Housing Land Transfer;
11. To consider reports by:-
The ~~Head of Corporate Services- 151 Officer~~ under Section 114(2) of the Local Government Finance Act 1988;
The Head of Paid Service under Section 4(5) of the Local Government and Housing Act 1989;
The Monitoring Officer under Section 5 of the Local Government and Housing Act 1989;
12. To consider and respond to public interest reports by the External Auditor, and related matters which the External Auditor recommends in writing should be so considered under Section 8 of the Audit Commission Act 1998;
13. To consider reports by the Local Government Ombudsman where the Council has taken no action (or action other than that recommended) on recommendations in earlier Ombudsman's reports as set out in Section 31A of the Local Government Act 1974;
14. To elect the Chairman of the Council as set out in Section 4 and the Vice-Chairman of the Council as set out in Section 5 of the Local Government Act 1972;
15. To agree and/or amend the terms of reference for Committees;

16. To make appointments to the Council's Committees;
17. To consider reports from any of the Council's Committees and give directions where there is a major impact on the Budget or Policy Framework agreed by Full Council;
18. To determine any issue passed up to Full Council by a Policy Committee or an Officer under the relevant provisions of Part 3 of this Constitution;
19. To consider any matter referred to Full Council by the Overview & Scrutiny Committee;
20. To review affiliation of, and appoint representatives to outside bodies unless the appointment has been delegated by Full Council;
21. To make or confirm the appointment (or dismissal) of the Chief Executive – See Officer Employment Procedure Rules in Part 5 of the Constitution;
22. To consider and respond to reports relating to the conduct of elections;
23. To make, amend, revoke, re-enact or adopt bylaws and promote or oppose the making of local legislation or personal Bills;
24. To approve schemes for local lotteries under Section 6(3) of the Lotteries and Amusements Act 1976;
25. To consider the delegation of functions from another Local Authority; and
26. All other matters which by law must be reserved to Full Council.

4.03 Full Council meetings

There are four types of Full Council meeting:

- (a) the Annual Meeting;
- (b) the Civic Meeting;
- (c) Ordinary Meetings;
- (d) Extraordinary Meetings.

and they will be conducted in accordance with the Council's Procedure Rules set out in Part 4 of this Constitution.

Article 8A – The Standards Sub-Committees

~~A. Terms of Reference of the Standards Sub-Committee (Initial Assessment)~~

~~Being mindful of the relevant legislation and any guidance issued by Standards for England with regard to initial assessment:-~~

- ~~1. The Standards Sub-Committee (Initial Assessment) will, subject to paragraph 2 below, initially assess all written complaints received by the Council's Monitoring Officer on the appropriate Complaint Form for such purposes or such written complaints submitted by a letter/e-mail/fax setting out all the relevant information required on such Complaint Form.~~
 - ~~2. The Standards Sub-Committee (Initial Assessment) will only have jurisdiction to consider written allegations that an elected or co-opted Member of the Council or a member of a Parish Council has failed, or may have failed, to comply with the Council's Code of Conduct for Members.~~
 - ~~3. The Standards Sub-Committee (Initial Assessment) is empowered to do one of the following:-~~
 - ~~(i) decide that no action should be taken in respect of the allegation;~~
 - ~~(ii) ask for additional information from the complainant on the allegation before concluding the initial assessment;~~
 - ~~(iii) if the allegation is likely to be reasonably substantiated and it is in the public interest to warrant Council funds being spent on a local investigation, refer the allegation to the Council's Monitoring Officer, with an instruction that s/he arranges for an investigation of the allegation or directs that s/he arranges training, conciliation or such other appropriate action as might be permitted by the relevant legislation;~~
 - ~~(iv) if the matter is of a serious nature (for example, there is a potential conflict of interest with the Standards Committee or the potential sanction(s) available to the Standards Committee might not be sufficient for the Standards Committee to deal with), refer the allegation to Standards for England for investigation; or~~
 - ~~(v) where the allegation is in respect of a person who is no longer a member of the Council, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other authority;~~
- ~~and shall authorise the Monitoring Officer to take all reasonable steps to implement its decision(s), with reasons, and to notify the person making the allegation and the member concerned of that decision.~~

- ~~4. The Standards Sub-Committee (Initial Assessment) shall also consider under Sections 1 and 2 of the Local Government and Housing Act 1989:-
 - ~~(a) any application received from any officer of the Council for exemption from political restriction in respect of the post held by that officer and may direct the Council that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the Council under Section 2(2) of that Act; and~~
 - ~~(b) upon the application of any person or otherwise, consider whether a post should be included in the list maintained by the Council under Section 2(2) of the 1989 Act, and may direct the Council to include a post in that list.~~~~
- ~~5. **Composition** — The Standards Sub-Committee (Initial Assessment) shall comprise of 3 members, one of whom shall be an independent member of the Standards Committee (who shall be Chairman of the Sub-Committee), one elected member of the Council and a Parish Councillor.~~
- ~~6. **Quorum** — The quorum for a meeting of the Standards Sub-Committee (Initial Assessment) shall be all 3 members.~~
- ~~7. **Frequency of Meetings** — The Standards Sub-Committee (Initial Assessment) will only meet if it needs to initially assess an allegation.~~

~~**B. Terms of Reference of the Standards Sub-Committee (Review)**~~

~~Being mindful of the relevant legislation and any guidance issued by Standards for England with regard to initial assessment:-~~

- ~~1. Upon the request of a person who has made an allegation that a member of the Council or a member of a Parish Council has failed, or may have failed, to comply with the Council's Code of Conduct, the Standards Sub-Committee (Review) will be convened to review a decision of the Standards Sub-Committee (Initial Assessment) that no action is taken in respect of that allegation.~~
- ~~2. The Standards Sub-Committee (Review) is empowered to take all decisions as per paragraph 3 of the terms of reference of the Standards Sub-Committee (Initial Assessment).~~
- ~~3. **Composition** — The Standards Sub-Committee (Review) shall comprise of 3 members of the Standards Committee who were not members of the Standards Sub-Committee (Initial Assessment). One of the members of the Standards Sub-Committee (Review) shall be an independent member of the Standards Committee (and Chairman of the Sub-Committee), one elected member of the Council and a Parish Councillor.~~
- ~~4. **Quorum** — The quorum for a meeting of the Standards Sub-Committee (Review) shall be all 3 members.~~

~~5. **Frequency of Meetings** — The Standards Sub-Committee (Review) shall meet as and when required to review any decision of the Standards Sub-Committee (Initial Assessment) within 3 months of the receipt of the request for such a review from the person who made the allegation.~~

~~**C. Terms of Reference of the Standards Sub-Committee (Consideration)**~~

~~1. In the event of there being a local investigation under paragraph 3(iii) of Section A, the Standards Sub-Committee (Consideration) shall determine, with reasons, whether:-~~

~~(i) it accepts the Monitoring Officer's finding of no failure to observe the Code of Conduct;~~

~~(ii) the matter should be referred for a hearing of the Standards Sub-Committee (Hearing); or~~

~~(iii) the matter should be referred to the Adjudication Panel for determination.~~

~~2. The Standards Sub-Committee (Consideration) shall be convened to consider a report following a local investigation into an allegation that a member of the Council or a member of a Parish Council has failed, or may have failed, to comply with the Council's Code of Conduct.~~

~~3. **Composition** — The Standards Sub-Committee (Consideration) shall comprise of 3 members of the Standards Committee. One of the members of the Standards Sub-Committee (Consideration) shall be an independent member of the Standards Committee (and Chairman of the Sub-Committee), one elected member of the Council and a Parish Councillor.~~

~~4. **Quorum** — The quorum for a meeting of the Standards Sub-Committee (Consideration) shall be all 3 members.~~

~~5. **Frequency of Meetings** — The Standards Sub-Committee (Consideration) shall meet as and when required to consider a report following a local investigation into any allegation(s) against a member of the Council or a member of a Parish Council.~~

~~**D. Terms of Reference of the Standards Sub-Committee (Hearing)**~~

~~Being mindful of the relevant legislation and any guidance issued by the Standards Board for England with regard to initial assessment:-~~

1. In the event that a hearing of the Standards Committee is required, the Standards Sub-Committee (Hearing) shall be convened to hear and determine any allegation that a member of the Council or a member of a Parish Council has failed, or may have failed, to comply with the Council's Code of Conduct.

2. **Composition** – The Standards Sub-Committee (Hearing) shall comprise of 3 members of the Standards Committee. One of the members of the Standards Sub-Committee (Hearing) shall be an independent member of the Standards Committee (and Chairman of the Sub-Committee), one elected member of the Council and a Parish Councillor.
3. **Quorum** – The quorum for a meeting of the Standards Sub-Committee (Hearing) shall be all 3 members.
4. **Frequency of Meetings** – The Standards Sub-Committee (Hearing) shall meet as and when required to hear and determine any allegation(s) against a member of the Council or a member of a Parish Council.

Article 10 – Joint Arrangements

10.01 Arrangements to Promote Well-Being

The Council, in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

10.02 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a Joint Committee with these other local authorities.
- (b) These Joint Committees are set out in the first column of the table below and will be composed as set out in the second column of that table.

| Name of Committee | Composition | Functions Delegated |
|--|--|---|
| Etwall Leisure Centre Joint Management Committee | 5-3 District Councillors from South Derbyshire District Council, 2 <u>County Councillors from Derbyshire County Council</u> and 23 representatives of the Governors of Etwall John Port School <u>Academy</u> | The control and management of the Etwall Leisure Centre |
| PATROL (Parking and Traffic Regulations outside London) Adjudication Joint Committee | 1 representative from any Local Authority which becomes an enforcement authority for the purposes of Part 6 of the Traffic Management Act 2004 (South Derbyshire D.C. became an enforcement authority on 19/02/09) | The control and management of the adjudication process pursuant to Part 6 of the Traffic Management Act 2004 together with other associated functions |
| <u>Derby and Derbyshire Strategic Leadership Board</u> | <u>1 representative and 1 substitute from each participating authority.</u> | <u>No functions delegated</u> |

Article 10: Joint Arrangements
Page 1
Updated ~~February 2014~~ 16 May 2024

10.03 Access to Information

- (a) The Access to Information Procedure Rules set out in Part 4 of this Constitution apply.
- (b) If the Joint Committee contains members who are not on the Executive of any participating authority then the Access to Information Procedure Rules in Part VA of the Local Government Act 1972 will apply.

10.04 Delegation to and from other Local Authorities

- (a) Full Council may delegate functions to another local authority or, in certain circumstances, the Executive of another local authority;
- (b) The decision whether or not to accept such a delegation from another local authority shall be reserved to Full Council.

10.05 Contracting Out

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

Formatted: Left

Article 11 – Officers

11.01 Management Structure

(a) **General**

Full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.

(b) **Chief Officers**

Full Council will engage persons for the following posts, who will be designated Chief Officers:

| Post | Functions and areas of responsibility |
|---|--|
| Chief Executive (and Head of Paid Service) | <ul style="list-style-type: none"> ➤ Overall corporate management and operational responsibility (including overall management responsibility for all Officers). ➤ Provision of professional advice to all parties in the decision making process. ➤ Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions. ➤ Representing the Council on partnership and external bodies (as required by statute or Full Council). |
| <u>Executive Director – Housing and Communities of Operations</u> | <ul style="list-style-type: none"> ➤ <u>Overall management for Operational Services, Environmental Services, Culture and Community Services.</u> |
| <u>Executive Director – Law and People</u> | <ul style="list-style-type: none"> ➤ <u>Overall management for Legal and Democratic Services, Organisational Development, Corporate Property Services.</u> ➤ <u>Responsibility for a system of record keeping for all the Council's decisions.</u> |
| <u>Executive Director – Resources and Transformation</u> | <ul style="list-style-type: none"> ➤ <u>Overall management for Finance, Customer Services, Business Change and ICT.</u> |
| <u>Executive Director – Place and Prosperity</u> | <ul style="list-style-type: none"> ➤ <u>Overall management for Planning, Economic Development and Growth, Housing Services.</u> |

(c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer**

The Council will designate the following posts as shown:

| Post | Designation |
|--|----------------------|
| Chief Executive | Head of Paid Service |
| <u>Executive Director – Law and People of Operations</u> | Monitoring Officer |

Such posts will have the functions described in Article 11.02–11.04 below.

(d) **Structure**

The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This is set out in Part 7 of this Constitution.

11.02 Functions of the Head of Paid Service

(a) **Discharge of Functions by Full Council**

The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.

(b) **Restrictions on Functions**

The Head of Paid Service may not be the Monitoring Officer but may hold the post of the Section 151 Officer if a qualified accountant.

11.03 Functions of the Monitoring Officer

(a) **Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for Members, Officers and the public and otherwise follow the Protocol for Monitoring and Review of the Constitution by the Monitoring Officer contained in Part 5 of this Constitution.

(b) **Ensuring Lawfulness and Fairness of Decision Making**

After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to Full Council if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission will or has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) **Supporting the Standards Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

(d) **Receiving Reports**

The Monitoring Officer will receive and act on reports, ~~made by Ethical Standards Officers and decisions of the case tribunals of the Standards Board for England.~~

- (e) **Conducting Investigations**
The Monitoring Officer will conduct investigations into matters ~~referred by Ethical Standards Officers~~ and make reports or recommendations in respect of them to the Standards Committee.
- (f) **Proper Officer for Access to Information**
The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.
- (g) **Providing Advice**
The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Councillors.
- (h) **Restrictions on Posts**
The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.
- (i) **Contributing to Corporate Management**
The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional legal advice.

11.04 Functions of the Section 151 Officer

- (a) **Ensuring Lawfulness and Financial Prudence of Decision Making**
After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to Full Council and the Council's External Auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful ~~expenditure, or~~ expenditure or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of Financial Affairs**
The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to Corporate Management**
The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice**
The Section 151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity to all Councillors and will support and advise Councillors and Officers in their respective roles.
- (e) **Provide Financial Information**

The Section 151 Officer will provide financial information to the media, members of the public and the community.

11.05 Duty to Provide Sufficient Resources to the Monitoring Officer and Section 151 Officer

The Council will provide the Monitoring Officer and Section 151 Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

11.06 Conduct

Officers will comply with the Employees' Code of Conduct and the Protocol on Member/Employee Relations set out in Part 5 of this Constitution.

11.07 Employment

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Procedure Rules set out in Part 5 of this Constitution.

Article 13 – Finance, Contracts and Legal Matters

13.01 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 4 of this Constitution.

13.02 Contracts

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

13.03 Legal Proceedings

The ~~Chief-Executive~~ Director – Law and People is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the ~~Chief~~ Executive Director – Law and people considers that such action is necessary to protect the Council's interests.

13.04 Authentication of Documents

Where it is necessary to sign any document on behalf of the Council for legal procedure or proceedings on behalf of Full Council, it will be signed by the ~~Chief-Executive~~ Director – Law and People or other person authorised by him/her, unless any enactment otherwise authorises or requires, or Full Council has given requisite authority to some other person.

A register of such documents shall be kept by the ~~Chief-Executive~~ Director – Law and People.

13.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the ~~Chief-Executive~~ Director – Law and People. A decision of Full Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the ~~Chief-Executive~~ Director – Law and People should be sealed. The affixing of the Common Seal will be attested by a member of the Council's Leadership Team ~~the Chief Executive or some other person authorised by him/her~~.

A register of every sealing shall be kept by the ~~Chief-Executive~~ Director – Law and People and each sealing shall be attested by the Chairman / Vice-Chairman or other Member of Full Council and a member of the Council's Leadership Team. ~~the Chief Executive or other person authorised by him~~.

|

|

Article 15 – Suspension, Interpretation and Publication of the Constitution

15.01 Suspension of the Constitution

(a) Limit to Suspension

The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by Full Council to the extent permitted within those Rules and the law.

(b) Procedure to Suspend

A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

(c) Rules Capable of Suspension

The following Rules may be suspended in accordance with Article 15.01:

- Council Procedure Rules – all except paragraphs 16.6 and 17.2
- Overview and Scrutiny Procedure Rules - all
- Contracts Procedure Rules - all
- Financial Procedure Rules - all

15.02 Interpretation

The ruling of the Chairman of Council as to the construction or application of this Constitution or as to any proceedings of Full Council shall not be challenged at any meeting of Full Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

15.03 Publication

- (a) The Monitoring Officer will ~~give a printed~~provide an electronic copy of this Constitution to each Member of the Authority upon delivery to him/her of that individual's Declaration of Acceptance of Office on the Member first being elected to the Council.
- (b) The Monitoring Officer will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

- (c) The Monitoring Officer will ensure that the Constitution is made widely available within the area and is updated as necessary.

Council Procedure Rules

CONTENTS

| No. | Rule | Pages |
|-----|--|---------|
| 1. | Annual Meeting of the Council | 2 |
| 2. | Ordinary Meetings | 2 – 3 |
| 3. | Extraordinary Meetings | 3 |
| 4. | Appointment of Substitute Members of Committees and Sub-Committees | 3 – 4 |
| 5. | Time and Place of Meetings | 4 |
| 6. | Notice of and Summons to Meetings | 4 |
| 7. | Chairman of Meeting | 4 |
| 8. | Quorum | 4 |
| 9. | Duration of Meeting | 4 – 5 |
| 10. | Questions by the Public | 5 – 6 |
| 11. | Questions by Members | 6 – 7 |
| 12. | Motions on Notice | 7 |
| 13. | Motions without Notice | 7 – 8 |
| 14. | Rules of Debate | 8 – 11 |
| 15. | Previous Decisions and Motions | 11 |
| 16. | Voting | 11 – 12 |
| 17. | Minutes | 12 |
| 18. | Record of Attendance | 12 |
| 19. | Exclusion of Public | 12 |
| 20. | Members' Conduct | 12 – 13 |
| 21. | Disturbance by Public | 13 |
| 22. | Suspension and Amendment of Council Procedure Rules | 13 |
| 23. | Application to Committees and Sub-Committees | 13 |
| 24. | Special Meetings of Committees | 14 |

1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and business

In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in May.

The Annual Meeting will:

- (a) elect a person to preside if the Chairman of Council is not present;
- (b) approve the Minutes of the last Meeting;
- (c) elect the Leader and Deputy Leader;
- (d) receive any announcements from the Chairman, Leader and Head of Paid Service;
- (e) appoint the Overview and Scrutiny Committee, a Standards Committee and such other Committees as detailed in Part 2 of this Constitution;
- (f) agree the Scheme of Delegation (as set out in Part 3 of this Constitution);
- (g) approve a programme of Ordinary Meetings of Full Council for the year and the cycle of Committees for the year; and
- (h) consider any business set out in the notice convening the Meeting.

1.2 Selection of Councillors on Committees and Outside Bodies

At the Annual Meeting, Full Council will:

- (a) decide which Committees to establish for the municipal year;
- (b) decide the size and terms of reference for those committees;
- (c) decide the proportional allocation of seats and substitutes to political groups in accordance with the political balance rules;
- (d) receive nominations of Councillors to serve on each Committee and outside bodies; and
- (e) appoint to those Committees (including Chairmen and Vice-Chairmen) and outside bodies except where appointment to those bodies has been delegated by Full Council.

1.3 Civic Meeting

The Civic Meeting will:

- (a) elect the Chairman of Council;
- (b) elect the Vice-Chairman of Council.

2. ORDINARY MEETINGS

Ordinary Meetings of Full Council will take place in accordance with a programme decided at Full Council's Annual Meeting. Ordinary Meetings will:

- (a) elect a person to preside if both the Chairman and Vice-Chairman are not present;
- (b) approve the Minutes of the last Meeting;
- (c) receive any declarations of interest from Members;
- (d) receive any announcements from the Chairman, Leader and Head of Paid Service;

- (e) receive questions from, and provide answers to, the public in accordance with the provisions of Rule 10;
- (f) receive questions from, and provide answers to, Members asked pursuant to Rule 11;
- (g) deal with any business remaining from the last Full Council Meeting;
- (h) receive reports from the Council's Committees (including the Overview & Scrutiny Committee) and receive questions and answers on any of those reports;
- (i) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (j) consider motions;
- (k) authorise the sealing of documents (if any); and
- (l) consider any other business specified in the summons to the Meeting.

3. EXTRAORDINARY MEETINGS

3.1 Calling Extraordinary Meetings

Those listed below may, by written notice, request the ~~Chief~~ Executive Director – Law and People to call Full Council meetings in addition to Ordinary Meetings:

- (a) Full Council by resolution;
- (b) the Chairman of the Council;
- (c) the Monitoring Officer; and
- (d) any five Members of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a Meeting or has failed to call a Meeting within seven days of the presentation of the requisition.

3.2 Business

An Extraordinary Meeting will consider only the item or items that have been included in the notice given to the ~~Chief~~ Executive Director – Law and People in accordance with Rule 3.1.

4. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES

4.1 Allocation

As well as allocating seats on Committees and Sub-Committees, Full Council will allocate seats in the same manner for Substitute Members.

4.2 Number

For each Committee or Sub-Committee, Full Council will appoint the same number of substitutes in respect of each political group as that group holds ordinary seats on that Committee or Sub-Committee, up to a maximum of 100% of the ordinary seats held, with the exception of the Overview and Scrutiny Committee.

4.3 Powers and Duties

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

4.4 **Substitution**

Substitute Members may attend Meetings in that capacity only:

- (a) to take the place of the ordinary Member for whom they are the designated substitute;
- (b) where the ordinary Member will be absent for the whole of the Meeting; and
- (c) after notifying the ~~Chief~~ Executive Director – Law and People no later than the commencement of the Meeting.

5. **TIME AND PLACE OF MEETINGS**

The time and place of Meetings will be determined by the ~~Chief~~ Executive Director – Law and People and notified in the summons.

No Meetings of Full Council shall be cancelled without the approval of the Chairman, Vice-Chairman and Leader of the Council.

6. **NOTICE OF AND SUMMONS TO MEETINGS**

The ~~Chief~~ Executive Director – Law and People will give notice to the public of the time and place of any Meeting in accordance with the Access to Information Procedure Rules set out in Part 4 of the Constitution. At least five clear days before a Meeting, the ~~Chief~~ Executive Director – Law and People will send an electronic summons signed by him or her to every Member of the Council ~~or leave it at their usual place of residence~~. The summons will give the date, time and place of each Meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

7. **CHAIRMAN OF MEETING**

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

8. **QUORUM**

The quorum of a Meeting will be one quarter of the whole number of Members. For Committees, except the Standards Committee where special rules apply, (see Article 8), the quorum will be one quarter of the whole number of Members or 3 Members, whichever is the greater. If a Committee has only 3 Members then the quorum is 2.

If, during any Meeting the Chairman counts the number of Members present and declares there is not a quorum present, then the Meeting will adjourn immediately. Remaining business will be considered at a time and

date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next Ordinary Meeting.

9. DURATION OF MEETING

Unless the majority of Members present vote for the Meeting to continue, any Meeting that has lasted for 2 hours 30 minutes will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next Ordinary Meeting.

10. QUESTIONS BY THE PUBLIC

10.1 General

Members of the public may ask questions of the Leader of the Council and any Chairman of a Committee at Ordinary Meetings, including Area Forums, except for the Planning Committee, the Standards Committee and the Licensing & Appeals Sub-Committee where no questions may be asked by the public.

10.2 Order of Questions

Questions will be asked in the order of notice received, except that the Chairman may group together similar questions.

10.3 Notice of Questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the ~~Chief Executive~~ Director – Law and People no later than midday 2 days before the day of the Meeting. Each question must give the name and address of the questioner and must name the Member of the Council to whom it is to be put. The Chairman may, at his / her discretion allow questions to be asked where no notice has been given whilst reserving the right to determine how these will be dealt with.

10.4 Number of Questions

At any one Meeting no person may submit more than 2 questions and no more than 2 such questions may be asked on behalf of one organisation.

10.5 Scope of Questions

The ~~Chief Executive~~ Director – Law and People may reject a question if it:

- (a) is not about a matter for which the Local Authority has a responsibility or which affects the District;
- (b) is defamatory, frivolous, offensive, is rhetorical or is not, in fact, a question;
- (c) is substantially the same as a question which has been put at a Meeting of the Council in the past six months; or
- (d) requires the disclosure of confidential or exempt information.

10.6 Record of Questions

The Chief Executive Director – Law and People will enter each question in a book open to public inspection and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be circulated to all Members and will be made available to the public attending the Meeting.

10.7 Asking the Question at the Meeting

The Chairman will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chairman to put the question on their behalf. The Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with. All questions should be delivered within a maximum of 3 minutes after which time the Chairman may ask the person putting the question to sit down.

10.8 Supplementary Question

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply and should be delivered within a maximum of 2 minutes after which time the Chairman may ask the person putting the question to sit down. The Chairman may reject a supplementary question on any of the grounds in Rule 10.5 above.

10.9 Time Limit

There shall be a time limit of 30 minutes for questions. At the expiry of the time limit the Chairman shall move to the next business.

10.10 Written Answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer.

10.11 Reference of Question to a Committee

Unless the Chairman decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the appropriate Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion.

11. QUESTIONS BY MEMBERS

11.1 On Reports of Committees

A Member of the Council may ask the Chairman of a Committee any question without notice upon an item contained in a report of a Committee when that item is being received or under consideration by the Council.

11.2 Questions on Notice at Full Council

Subject to Rule 11.4, a Member of the Council may ask:

- (a) the Chairman;
- (b) the Leader; or
- (c) the Chairman of any Committee or Sub-Committee

a question on any matter in relation to which the Council has powers or duties or which affects South Derbyshire.

11.3 Questions on Notice at Committees and Sub-Committees

Subject to Rule 11.4, a Member of a Committee or Sub-Committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affects South Derbyshire and which falls within the terms of reference of that Committee or Sub-Committee.

11.4 Notice of Questions

A Member may only ask a question under Rule 11.2 or 11.3 if either:

- (a) they have given notice in writing of the question to ~~Chief~~ Executive Director – Law and People by 10.00am on the working day before the day of the Meeting; or
- (b) the question relates to urgent matters, they have the consent of the Chairman to whom the question is to be put and the content of the question is given to the ~~Chief~~ Executive Director – Law and People by noon on the day of the Meeting.

11.5 Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

11.6 Supplementary Question

A Member asking a question under Rule 11.2 or 11.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

12. MOTIONS ON NOTICE

12.1 Notice

Except for motions which can be moved without notice under Rule 13, written notice of every motion, signed by the Member or Members giving the notice, must be delivered to the ~~Chief~~ Executive Director – Law and People not later than 7 clear days before the date of the Meeting. These will be entered in a book open to public inspection.

12.2 Motion Set Out in Agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it to a later Meeting or withdraw it.

12.3 **Scope**

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

13. **MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (a) to appoint a Chairman of the Meeting at which the motion is moved;
- (b) in relation to the accuracy of the Minutes;
- (c) to change the order of business in the agenda (except where the order is prescribed by law or items 12.1 – 12.2 above);
- (d) to refer something to an appropriate Committee;
- (e) to appoint a Committee or Member arising from an item on the summons for the Meeting;
- (f) to receive reports or adoption of recommendations of Committees or Officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) to extend the time limit for speeches;
- (k) that the question be now put;
- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) that the Meeting continue beyond 2 hours 30 minutes in duration;
- (o) to suspend a particular Council Procedure Rule;
- (p) to exclude the public and press in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution;
- (q) to not hear further from a Member named under Rule 20.3 or to exclude them from the Meeting under Rule 20.4;
- (r) to give the consent of the Council where its consent is required by this Constitution; and
- (s) any motion which the Council determines to be urgent.

14. **RULES OF DEBATE**

14.1 **No Speeches Until Motion Seconded**

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

14.2 **Right to Require Motion in Writing**

Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him/her before it is discussed.

14.3 **Secunder's Speech**

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

14.4 **Content and Length of Speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 10 minutes without the consent of the Chairman.

14.5 **When a Member May Speak Again**

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

- (a) to speak once on an amendment moved by another Member;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

14.6 **Amendments to Motions**

(a) An amendment to a motion must be relevant to the motion and will either be:

- (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (ii) to leave out words;
- (iii) to leave out words and insert or add others; or
- (iv) to insert or add words.

as long as the effect of (ii) to (iv) is not to negate the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

14.7 **Alteration of Motion**

- (a) A Member may alter a motion of which he/she has given notice with the consent of the Meeting. The Meeting's consent will be signified without discussion.
- (b) A Member may alter a motion which he/she has moved without notice with the consent of both the Meeting and the seconder. The Meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

(d)

14.8 **Withdrawal of Motion**

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

14.9 **Right of Reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

14.10 **Motions Which May Be Moved During Debate**

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a Meeting;
- (g) that the Meeting continue beyond 2 hours 30 minutes in duration;
- (h) to exclude the public and press in accordance with the Access to Information Procedure Rules; and
- (i) to not hear further from a Member named under Rule 20.3 or to exclude them from the Meeting under Rule 20.4.

14.11 **Closure Motions**

- (a) A Member may move, without comment, the following motions at the end of a speech of another Member:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a Meeting.

- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the Meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

14.12 Point of Order

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

14.13 Personal Explanation

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

14.14 Withdrawal from Meeting Room

A Member having an interest in any matter on the agenda leading to non-participation in the matter shall withdraw from the meeting room during the consideration and determination of the matter in question.

15. PREVIOUS DECISIONS AND MOTIONS

15.1 Motion to Rescind a Previous Decision

A motion or amendment to rescind a decision made at a Meeting of Full Council within the past six months cannot be moved unless the notice of motion is signed by at least 9 Members.

15.2 Motion Similar to One Previously Rejected

A motion or amendment in similar terms to one that has been rejected at a Meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 9 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

16. **VOTING**

16.1 **Majority**

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

16.2 **Chair's Casting Vote**

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

16.3 **Show of Hands**

Unless a ballot or recorded vote is demanded under Rules 16.4 and 16.5, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the Meeting.

16.4 **Ballots**

The vote will take place by ballot if 8 Members present at the Meeting demand it. The Chairman will announce the numerical result of the ballot immediately the result is known.

16.5 **Recorded Vote**

If 8 Members present at the Meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the Minutes. A demand for a recorded vote will override a demand for a ballot.

Immediately after any vote is taken at a budget decision meeting there will be a recorded vote in the minutes of the proceedings of that meeting, the names of the persons who cast a vote for the decision, or against the decision, or who abstained from voting.

16.6 **Right to Require Individual Vote To Be Recorded**

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

16.7 **Voting on Appointments**

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

17. **MINUTES**

17.1 **Signing the Minutes**

The Chairman will sign the Minutes of the proceedings at the next suitable Meeting. The Chair will move that the Minutes of the previous Meeting be

signed as a correct record. The only part of the Minutes that can be discussed is their accuracy.

17.2 No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting

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

18. RECORD OF ATTENDANCE

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

19. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Rule 21 (Disturbance by Public).

20. MEMBERS' CONDUCT

20.1 Standing to Speak

When a Member speaks at Full Council they must stand and address the Meeting through the Chair. If more than one Member stands, the Chairman will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

20.2 Chairman Standing

When the Chairman stands during a debate, any Member speaking at the time must stop and sit down. The Meeting must be silent.

20.3 Member not to be Heard Further

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

20.4 Member to Leave the Meeting

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

20.5 General Disturbance

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

21. **DISTURBANCE BY PUBLIC**

21.1 **Removal of Member of the Public**

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

21.2 **Clearance of Part of Meeting Room**

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

22. **SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

22.1 **Suspension**

All of these Council Procedure Rules except Rule 16.6 and 17.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of Full Council are present. Suspension can only be for the duration of the Meeting.

22.2 **Amendment**

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

23. **APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

All of the Council Procedure Rules apply to Meetings of Full Council. Only Rules 5 –14, 16 – 24 (but not Rule 20.1) apply to Meetings of Committees and Sub-Committees.

24. **SPECIAL MEETINGS OF COMMITTEES**

24.1 The cycle of Ordinary Meetings of Committees shall be determined by Full Council at the Annual Meeting but Special Meetings of Committees may be called at any time by:-

- (a) the Chief Executive either at the request or with the agreement of the Chairman of the Committee (in respect of urgent items only); or
- (b) on the written request of one quarter of the whole number of Councillors on the Committee delivered in writing to the Chief Executive.

24.2 Where a written request is received in accordance with Rule 24.1 the Meeting will consider only the item or items that have been included in that notice.

SCHEME OF DELEGATION TO OFFICERS

(Approved by Annual Council on 16 May 2024~~19th September 2019~~)

TABLE OF CONTENTS

| | <u>Page(s)</u> |
|--|----------------|
| 1. General Conditions Applying to all Delegated Powers | 2 |
| 2. General Powers Delegated to the Chief Executive and <u>Executive</u> Directors | 2 – 3 |
| 3. Powers Delegated to the Chief Executive | 3 |
| 4. Powers Delegated to the Strategic Director (Corporate Resources) <u>Executive Director – Law and People (Monitoring Officer)</u> | 3 – 5 |
| 5. Powers Delegated to the Strategic Director (Corporate Resources) and the Strategic Director (Service Delivery) | |
| 56. Powers Delegated to the Strategic Executive Director – Resources and Transformation (s.151) (Service Delivery) | 6 – 9 |
| 76. Powers Delegated to the Executive Director – Environment and Communities Head of Legal and Democratic Services | 9 - 11 |
| 7. Powers Delegated to the Executive Director – Place and Prosperity | 11 - 15 |
| 8. <u>The Protocols</u> | |
| 98.1 Financial Services Protocol | 15 |
| 98.2 Organisational Development Protocol | 15 |
| 98.3 Corporate Property and Asset Management Protocol | 16 |
| 98.4 Planning Services Protocol | 16 - 18 |
| 98.5 Housing Services Protocol | 19 |
| 98.6 Culture and Community Protocol | 19 |
| 98.7 Economic Regeneration Protocol | 19 |
| 98.8 Environmental Services Protocol | 19 |
| 98.9 Licensing Protocol | 19 – 20 |

SCHEME OF DELEGATION TO OFFICERS

1. GENERAL CONDITIONS APPLYING TO ALL DELEGATED POWERS

1.1 The powers delegated in this Scheme must be exercised in accordance with:

- (1) the Council's Constitution;
- (2) relevant policies of the Council;
- (3) approved budgets;
- (4) decisions of the Council and its Committees.

1.2 The Chief Executive or Executive Directors need not exercise their delegated powers and must not if, in their opinion, the matter involves questions of policy not yet determined by the Council.

1.3 Unless prohibited by law, the Chief Executive and each Executive Director may delegate any power to another Executive Director or the Chief Executive and authorise other officers by designation to exercise defined powers.

1.4 Delegated powers include carrying out all duties and powers covered by the function, including administrative and procedural acts, exercising discretion, making determinations, and imposing, amending, deleting, revoking, enforcing conditions, limitations, restrictions or other terms on any approval, consent, licence, permission or registration.

1.5 All powers delegated under this Scheme are subject to the Protocols set out in paragraph 9. These Protocols are designed to limit or qualify the exercise of those powers by the Chief Executive and Executive Directors and to ensure that Members of the Council have adequate opportunity to comment on and be involved in the decision-making process, where appropriate.

2. GENERAL POWERS DELEGATED TO THE CHIEF EXECUTIVE AND EXECUTIVE DIRECTORS

2.1 To exercise those powers and functions allocated to them under the Council's Constitution.

2.2 To undertake the day-to-day management of their Directorates and the services for which they are responsible, including the deployment of personnel, premises, finance, vehicles, plant, equipment and other resources under their control.

2.3 Subject to the overall control of the Chief Executive and within the Council's approved establishment, policies and procedures, to recruit, manage and, if necessary, to dismiss staff within their control, including:

- (1) authorising pay and conditions;
 - (2) undertaking disciplinary and grievance proceedings;
 - (3) defending and, if necessary (and subject to the approval of the Strategic Executive Director – Resources and Transformation (s.151)(Corporate Resources) if it involves claiming on the Council's insurance), settling any claims made against the Council;
 - (4) taking overall responsibility for the health and safety at work of employees;
 - (5) implementing all approved employment policies, practices and procedures.
- 2.4 To acquire, grant and dispose of rights in land, premises, vehicles, plant, equipment and other property on such terms and conditions as considered appropriate.
- 2.5 To provide and commission goods and services and to undertake and commission works.
- 2.6 To provide grants and other financial assistance.
- 2.7 To authorise and witness, with the Chairman or Vice-Chairman of the Council, the execution of deeds by affixing the Council's Common Seal

3. POWERS DELEGATED TO THE CHIEF EXECUTIVE

- 3.1 To be Head of Paid Service for the Council.

4. POWERS DELEGATED TO THE EXECUTIVE DIRECTOR – LAW AND PEOPLE (MONITORING OFFICER)

- 4.1 To be Monitoring Officer for the Council.

34.2 Administration

- (1) To undertake all administrative functions of the Council relating to the operation of the Council's Constitution and meetings of the Council, its Committees and Panels.
- (2) To undertake all functions relating to Parish Councils.
- (3) To undertake all functions relating to civic matters.
- (4) To formulate and co-ordinate advice on strategic and corporate policy, continuous performance assessment, use of resources, and value for money.
- (5) To undertake all functions relating to electoral matters.

- (6) To approve attendance of Members at conferences, seminars, etc, in consultation with the Leader or Deputy Leader of the Council.

34.3 Legal Services, Licensing and Economic Development

- (1) To undertake all legal functions, including:
- authorising, instituting, defending, appearing in or settling any legal proceedings;
 - issuing or serving any notice or order which is not the responsibility of any Executive Director.

4.4 Licensing Services

- (21) To undertake all functions relating to licensing, including:

- street and house-to-house collections;
- amusements, lotteries and gaming;
- taxi and private hire licensing;
- alcohol, entertainment and late night refreshment;
- sex establishments;
- personal treatments i.e. tattoo, piercing;
- street trading;
- zoos;
- dangerous wild animals;
- scrap metal
- licensing of activities involving animals.

- ~~(3) To be responsible for all functions relating to the promotion of the economic regeneration of South Derbyshire, working in partnership with local, sub-regional and regional agencies to develop the local economy and workforce, including:~~

~~attracting inward investment, of businesses and employment, to the District;
attracting visitors, from the UK and overseas, to South Derbyshire and the National Forest;
supporting business development, by providing advice and support to local businesses and tourism enterprises;
providing visitor information to visitors and local residents, principally through the operation of a Tourist Information Centre.~~

- ~~(4) To authorise and witness, with the Chairman or Vice Chairman of the Council, the execution of deeds by affixing the Council's Common Seal.~~

34.45 Land Charges

To undertake and co-ordinate all functions relating to Local Land Charges and Enquiries.

4.6 Organisational Development and Communications

(1) To be responsible for providing an effective Human Resources Service, including the formulation, implementation and monitoring of fair and effective employment policies, practices and procedures; compliant health and safety framework and learning and development service.

(2) To undertake functions, other than those which are the responsibility of other Chief Officers, relating to the development, management, co-ordination and monitoring of corporate policy objectives, including:

- managing delivery of Corporate Policy including the production of corporate Policy documents including the Corporate Plan and Annual Report;
- developing and co-ordinating the performance management framework (the Corporate Plan, Service Plans and any National Performance Indicators);
- supporting and co-ordinating arrangements for consultation;
- developing the Council's approach to Equality, Fairness and Social Inclusion issues.

4.7 Communications

To undertake functions relating to the provision of an effective internal and external communications service.

4.8 Corporate Property and Asset Management

To be responsible for the effective strategic management and co-ordination of corporate property and asset management planning.

34.59 Probity Issues

To be responsible for all probity issues and to co-ordinate the response to complaints against the Council, including settling complaints and paying compensation.

34.6 Debts

~~To write off debts up to £2,500, in consultation with the Strategic Director(Corporate Resources)~~

34.10 Funding

To undertake applications for funding, to public and other bodies, where appropriate.

**45. POWERS DELEGATED TO THE ~~STRATEGIC EXECUTIVE DIRECTOR~~ =
RESOURCES AND TRANSFORMATION (CORPORATE RESOURCES)**

45.1 To have overall control of the Council's finances and to act as financial adviser to the Council, its Committees, the Chief Executive and Executive-Directors.

45.2 Financial Services

(1) To undertake all functions in relation to:

- accountancy and financial administration matters, including bank accounts;
- grant claims;
- investments;
- prudential borrowing;
- pensions;
- insurances;
- risk management;
- ~~Housing and Council Tax Benefits~~;
- ~~Council Tax and Non-Domestic Rates and other revenues~~
- ~~Non-Domestic Rate Relief~~;
- payroll and related matters;
- pensions;
- debtors and creditors;
- Collection Fund;
- investigation of fraud and impropriety
- anti-fraud and anti-corruption strategies and measures;
- effective internal management and financial control systems;
- effective partnership financial controls;
- the Medium-Term Financial Strategy, the Medium-Term Financial Plan and annual budget.

(2) To control all funds and reserves.

~~(3) To report annually to Council on the robustness of the budget and adequacy of reserves.~~

~~(4) To provide advice on the scope of powers and authority to take decisions, financial impropriety, probity, and Budget and Policy Framework issues to officers and Members.~~

~~(5) To establish and maintain the general fund and collection fund of the Council.~~

~~(6) To manage the capital programme flexibly and to make adjustments to the phasing of approved projects within the limits of available capital resources.~~

~~(7) To approve the draft Council's Accounts and Accounting Policies each year.~~

(8) To approve the terms of release of staff aged 55 or over and made redundant or retired early with a claim on the pension scheme, in accordance with agreed procedures.

(9) To write off uncollectible debts up to £10,000.

(10) To provide financial information to the media, members of the public and the community

(11) To undertake applications for funding, to public and other bodies, where appropriate.

5.3 Business Change and ICT Information Technology and Business Improvement

(1) To be responsible for providing and supporting the Council's Information and Communication Technology needs, and for ensuring that ICT Information Technology resources are used appropriately and efficiently in accordance with the Council's corporate framework.

(2) To ensure that the Council's ICT Information Technology is secure and that it follows best practice guidelines, such as the Public Services Network.

(3) To be responsible for providing the Council with ~~effective, efficient and economic procurement and~~ continuous business improvement that enables value for money in the delivery of services.

(4) To ensure that the Council's ICT Strategy ~~and Procurement Strategy~~ are kept up to date with any necessary minor amendments.

(5) To ensure that the Council's Data Quality strategy is adopted across the Council, to ensure data is accurate, valid, reliable, timely, relevant and complete.

(6) ~~To be responsible for co-ordinating responses to Freedom of Information and Data Protection requests and for ensuring that the Council's Freedom of Information Publication scheme is kept up to date.~~

5.4 Customer Services

To be responsible for providing an integrated Customer Service.

(1) To be responsible for providing the Council with effective, efficient and economic integrated Customer Service.

(2) To ensure that the Council's Customer Experience Strategy remains up to date and fit for purpose

(3) To ensure an effective Customer Feedback service in the administration and handling of customer complaints resolution and utilisation of data to improve services

(4) To undertake all functions in relation to:

- Housing and Council Tax Benefits;
- Council Tax and Non-Domestic Rates and other revenues
- Non-Domestic Rate Relief;

5.6 Procurement

(1) To be responsible for providing the Council with effective, efficient and economic procurement service that enables value for money in the delivery of services.

(2) To ensure that the Council's Procurement Strategy is kept up to date

(3) To ensure the Council's contracts register is published in line with statutory regulations

(4) To maintain an effective procurement plan

Organisational Development

~~(1) To be responsible for providing an effective Human Resources Service, including the formulation, implementation and monitoring of fair and effective employment policies, practices and procedures; compliant health and safety framework and learning and development service.~~

~~(2) To undertake functions, other than those which are the responsibility of other Chief Officers, relating to the development, management, co-ordination and monitoring of corporate policy objectives, including:~~

~~managing delivery of Corporate Policy including the production of corporate Policy documents including the Corporate Plan and Annual Report;
developing and co-ordinating the performance management framework (the Corporate Plan, Service Plans and any National Performance Indicators);
supporting and co-ordinating arrangements for consultation;
developing the Council's approach to Equality, Fairness and Social Inclusion issues.~~

~~(3) To undertake functions relating to the provision of an effective internal and external communications service.~~

5.7 Internal Audit

To be responsible for providing an effective Internal Audit Service.

5.8 Corporate Property and Asset Management

~~To be responsible for the effective strategic management and co-ordination of corporate property and asset management planning.~~

5.9 Performance

- (1) To be responsible for providing the Council with effective, efficient and economic internal performance service that supports the Council to achieve it's aims and priorities
- (2) To ensure delivery against the Council Plan is monitored and reported
- (3) To support services in the identification of service failure and support the implementation of actions to address and improve performance

5.10 Assets of Community Value

To determine applications to list Assets of Community Value.

5.119 Funding

To undertake applications for funding, to public and other bodies, where appropriate.

5.12 Miscellaneous

To act as Treasurer to the Etwall Leisure Centre Joint Management Committee.

~~5. POWERS DELEGATED TO THE STRATEGIC DIRECTOR (CORPORATE RESOURCES) AND THE STRATEGIC DIRECTOR (SERVICE DELIVERY)~~

~~5.1 In the absence of the Chief Executive, to authorise and witness, with the Chairman or Vice-Chairman of the Council, the execution of deeds by affixing the Council's Common Seal.~~

~~6. POWERS DELEGATED TO THE STRATEGIC EXECUTIVE DIRECTOR – ENVIRONMENT AND COMMUNITIES DIRECTOR (SERVICE DELIVERY)~~

~~6.1 Housing Services~~

~~To undertake all functions relating to Housing including:~~

- ~~▪ housing management;~~
- ~~▪ maintenance and improvement of the Council's housing stock and its environment;~~
- ~~▪ facilitating the provision of housing and incidental amenities;~~
- ~~▪ housing advice, advances and grants;~~
- ~~▪~~
- ~~▪ homelessness;~~

- ~~▪ crime, disorder and anti-social behavior reduction, in liaison with the Police, in council housing and in general community;~~
- ~~▪~~
- ~~▪ community involvement;~~
- ~~▪ housing related support services~~
- ~~▪ nominations to registered providers of housing.~~

6.1 Environmental and Direct Services

To undertake all functions relating to Environmental Services and Health, including:

- food hygiene and safety;
- infectious disease control;
- public health;
- private water supplies and potable water standards;
- anti-social behaviour and community protection;
- private sector housing standards and safety;
- caravan sites;
- house in multiple occupation;
- Health and Safety at Work;
- pollution control, noise and statutory nuisance;
- exhumations;
- pest control;
- dog control and animal welfare;
- environmental crime, including litter, waste and fly tipping ;
- private water supplies and potable waterstandards;
- environmental management;
- climate change.;

6.2 Operational Services

To undertake all functions relating to Direct-Operational Services including;

- recycling;
- cleansing of highways and other public areas;
- public conveniences;
- bus shelters;
- street name plates and signs;
- street furniture and litter bins;
- refuse collection and disposal;
- litter and flytipping – prevention and clearance;
- grounds and highway verge maintenance.

6.3 Cultural and Community Services

(1) To be responsible for all functions relating to Cultural and Community services including:

- indoor and outdoor leisure facilities;
- public parks and open spaces;
- tree management;

- allotments;
- arts, heritage, community, sport, play, health and leisure activities;
- civic duties and events;
- environmental education;
- conserving and enhancing the natural environment;
- community engagement and development;
- cemeteries, crematoria and mortuaries;
- welfare funerals;
- grant aid support to voluntary organisations;
- developing a Sustainable Community Strategy for South Derbyshire through the South Derbyshire Partnership.

(2) To be responsible for all functions relating to the Safer South Derbyshire Partnership:

- community safety, crime, disorder and anti-social behavior reduction, in liaison with the Police.

6.4 Funding

To undertake applications for funding, to public and other bodies, where appropriate.

7. POWERS DELEGATED TO THE EXECUTIVE DIRECTOR – PLACE AND PROSPERITY

7.1 Housing Services

To undertake all functions relating to Housing including:

- housing management;
- maintenance and improvement of the Council's housing stock and its environment;
- facilitating the provision of housing and incidental amenities;
- housing advice, advances and grants;
- homelessness;
- crime, disorder and anti-social behavior reduction, in liaison with the Police, in council housing and in general community;
- community involvement;
- housing related support services
- nominations to registered providers of housing.

7.2 Economic Development and Growth

To be responsible for all functions relating to the promotion of the economic regeneration of South Derbyshire, working in partnership with local, sub-regional and regional agencies to develop the local economy and workforce, including:

- attracting inward investment, of businesses and employment, to the District;
- attracting visitors, from the UK and overseas, to South Derbyshire and the National Forest;
- supporting business development, by providing advice and support to local businesses and tourism enterprises;
- providing visitor information to visitors and local residents, principally through the operation of a Tourist Information Centre.

67.43 Planning and Development Management

All functions in accordance with all Town and Country Planning, Listed Building and related or associated legislation (including subordinate legislation and any consolidation, re-enactment or amendment thereto), shall be delegated to the Head of Planning and Strategic Housing , including the following:

- to determine all planning applications, applications for permission in principle, approval of reserved matters, prior notifications/determinations/approvals, consents and consultations (including those from County Council and neighbouring authorities), submitted to or received by the Council;
- to determine non-material amendments and minor material amendments to planning permissions;
- to determine applications for certificates of lawfulness for proposed or existing uses or development;
- to approve details submitted in compliance with conditions on planning permissions;
- to determine whether an Environmental Impact Assessment is required to accompany a planning application, and the matters to be covered in the assessment (i.e. issuing of screening and scoping opinions);
- to negotiate the terms of section 106 agreements and/or the Community Infrastructure Levy in accordance with the Adopted Charging Schedule;
- to decline to determine planning applications under section 70(a) of the Town and Country Planning Act 1990;
- to submit an order to the Secretary of State for revocation of a Hazardous Substances Consent;
- to serve building preservation notices under section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as may be amended) in consultation with the Chairman of the Planning Committee;
- to serve repairs notices on listed buildings under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990;
- to execute urgent works under section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990;
- to make, confirm and revoke tree preservation orders where there are no objections, in consultation with the Chairman of the Planning Committee;
- to serve hedgerow retention notices;
- to respond to notices of intention to carry out works to trees in conservation areas;

- Statements of Community Consultation for applications to the Planning Inspectorate National Planning Casework Unit (as may be superseded);
- submission of all necessary statements, proofs of evidence, etc, as required as part of the planning appeals process;
- to carry out any necessary changes to procedures in line with government guidance/statutory requirements;
- to negotiate and agree the terms of Planning Performance Agreements and extensions to the determination timeframe for applications;
- to respond to informal development enquiries;
- to make and, where no objections are received, confirm footpath diversion orders;
- the registration and verification of initial notices submitted by Approved Inspectors under the Building Act 1984.

67.54 Planning Enforcement

To undertake all functions in relation to Planning Enforcement, including:

- to take any formal enforcement action in relation to cases of unauthorised Development, not covered by other specific delegated authority, in accordance with the Council's Adopted Local Enforcement Plan;
- to serve enforcement notices, stop notices and temporary stop notices under the Town and Country Planning Act 1990;
- to serve requisitions for information under Section 330 of the Town and Country Planning Act 1990;
- to serve tree replacement notices
- to serve planning contravention notices under Section 171C of the Town and Country Planning Act 1990;
- to serve breach of condition notices;
- to take action under Section 224 of the Town and Country Planning Act 1990 and the Town and Country (Control of Advertisement) Regulations in respect of unauthorised advertisements;
- to withdraw a planning enforcement notice where planning permission for the development has subsequently been granted;
- to remove or obliterate posters under Section 225 of the Town and Country Planning Act 1990;
- to serve notices under Section 215 of the Town and Country Planning Act 1990 requiring the proper maintenance of land;
- to carry out any necessary changes to procedures/the Adopted Local Enforcement Plan in line with government guidance/statutory requirements;
- to enter land and buildings as authorised under:
 - Town and Country Planning Act 1990 (as may be amended);
 - Town and Country Planning (Listed Building and Conservation Areas) Act 1990 (as may be amended);
 - Planning (Hazardous Substances) Act 1990 (as amended);
 - Planning (Hedgerow Regulations) Act 1997;
 - Local Government (Miscellaneous Provisions) Act 1976, 1982;
 - Planning (Consequential Provisions) Act 1990 (as amended).

67.65 Building Control

All functions in accordance with the Building Act 1984 and related or associated legislation (including subordinate legislation and any consolidation, re-enactment or amendment thereto), including

~~To authorise the South Staffordshire Building Control Partnership/Central Building Control Partnership to undertake all functions in relation to Building Control, including:~~

- plans and notices deposited under the Building Regulations;
- site inspection of building work in progress for Building Regulation and associated legislation compliance;
- determination of applications and the issue of legal certificates
- investigation of reports of unauthorised work and the taking of appropriate action to deal with those works, along with any contravention of the regulation;
- to provide professional advice regarding the Building Regulations and compliance thereto;
- assessment and variation of charges under the Council's Scheme of Charges;
- Building Act 1984, Part II notices;
- applications for Building Regulations dispensation or relaxation;
- the authority to deal with the control of dangerous structures and to act as the proper officer where such emergencies make it necessary in accordance with an agreed protocol;
- requisitions for information;
- enforcement notices under the Building Act 1984;
- Local authority national type approval consortium scheme notices;
- local authority building control national partnering scheme;
- street naming and house numbering and fee setting thereof;
- to enter land and buildings as authorised under the Building Act 1984;
- to take all actions prescribed by Sections 77 – 81 of the Building Act 1984;
- to take all actions prescribed by Sections 36 and 59 of the Building Act 1984.

67.76 Planning Policy

To undertake all Planning Policy functions, including:

- to develop and implement the Development Plan and related supplementary planning documents for the District;
- to participate in the strategic development of strategic plans and policies;
- to commission and undertake research and evidence in connection with the above matters;
- provision of advice and guidance and written responses to Neighbourhood Planning Bodies;
- duties under the neighbourhood planning legislation;

- to provide responses to other local planning authorities in respect of preparation of their development plan(s) and associated planning documents;
- to devise and undertake public consultation.

~~67.78~~ Funding

To undertake applications for funding, to public and other bodies, where appropriate.

~~8. POWER DELEGATED TO THE HEAD OF LEGAL AND DEMOCRATIC SERVICES~~

~~8.1 To be Monitoring Officer for the Council.~~

8. THE PROTOCOLS

98.1 Financial Services Protocol

- (1) All budgetary and financial decision-making is subject to the Council's Financial Regulations and Financial Procedures.
- (2) All decisions on Non-Domestic Rate Relief are subject to the Council's Delegated Scheme for the Granting of Discretionary Rate Relief, Discretionary Rural Rate Relief and Hardship Relief.

98.2 Organisational Development Protocol

- (1) All proposals to alter the Council's establishment involving increased expenditure will be presented to Finance and Management Committee for determination.
- (2) Delegated powers in relation to the Corporate Plan are subject to the Annual Report and Plan Summary approved by Council, and to performance reports managed by and reported to relevant policy committees.
- (3) Delegated powers in relation to Performance Management are subject to the Performance Management framework approved from time to time by the Finance and Management Committee.
- (4) Delegated powers in relation to consultation are subject to the Consultation Strategy and to specific consultation programmes agreed by relevant committees.
- (5) Delegated powers in relation to communication are subject to the Communication Strategy and to specific communication campaigns agreed by relevant committees.

- (6) Delegated powers in relation to Equality, Fairness and Social Inclusion are subject to relevant strategies, policies and schemes approved by the Council or appropriate committee.
- (7) Delegated powers in relation to the Overview and Scrutiny Committee are subject to the work plans of that committee.

98.3 Corporate Property and Asset Management Protocol

- (1) Any acquisitions or disposals of property will be undertaken only after receiving advice from a fully qualified valuer.
- (2) There is no delegated power to the Chief Executive or any Director to approve the acquisition or disposal of freehold land and property, or of leases or licences the premium or annual consideration for which exceeds £10,000. This excludes the re-letting of commercial and industrial property as part of the day-to-day management of the Council's property estate.

98.4 Planning Services Protocol

- (1) Delegated power on applications may be exercised only in the following cases:
 - the approval of non-major applications in conformity with development plan policies and/or supplementary planning documents and national planning policy guidance/statements;
 - the refusal of non-major applications significantly in conflict with development plan policies and/or supplementary planning documents and national planning policy guidance/statements;
 - the approval of major applications which are not subject to a significant level of controversy and which conform to development plan policies and/or supplementary planning guidance and national planning policy guidance;
 - the refusal of major applications which are not subject to a significant level of controversy and which conflict with development plan policies and/or supplementary planning documents and national planning policy guidance;
 - in the case of major applications which are not subject to a significant level of controversy and where there is no relevant development plan policy or supplementary planning document and national planning policy guidance/statements, the determination of such applications in accordance with long-term, consistent precedent decisions and specialist advice from consultees.
- (2) Delegated power on enforcement action may be exercised only in the following cases:
 - where there is a clear-cut conflict with development plan policies and/or supplementary planning documents and national planning policy guidance/statements;

- where there has been a previous committee decision, which leads logically to a decision to enforce;
 - where an appeal decision provides a precedent for enforcement;
 - where unauthorized works to protect trees have been carried out;
 - where a site is manifestly untidy;
 - the issue of temporary stop notices.
- (3) The following matters are specifically excluded from these delegated powers:
- any application (other than Certificates of Lawfulness of Existing or Proposed Use or Development, applications for non-material amendments to existing planning permissions and prior notifications) which a Member requests to come before the Planning Committee;
 - any major application or an application on a matter where there is no established planning policy or formal supplementary planning documents and national planning policy guidance, where a relevant parish council expresses a clear view in favour of the proposal which would otherwise be refused or a clear objection where the application would otherwise be approved;
 - any application which has the potential for compensation payable by the Council;
 - any application by or on behalf of a member of staff or Member of the Council;
 - any application where the Council itself is the applicant or owner of the application site, except for works to Council owned trees which are within a conservation area and not subject to a Tree Preservation Order;
 - any other matter which, notwithstanding this Scheme of Delegation, the Planning Services Manager considers should be brought to the attention of Planning Committee.
- (5) A matter is to be regarded as being “subject to a level of significant controversy” if:
- more than four letters of objection from neighbours are received where the outcome could otherwise be an approval;
 - more than four letters of support from neighbours are received where the outcome could otherwise be a refusal;
 - advice given by any statutory consultee is inconsistent with the recommendation(s) of the Planning Services Manager.
- (6) “Applications” include:
- full, outline and reserved matters planning applications;
 - applications for permission in principle;
 - applications for advertisement, listed building and relevant demolition consents;
 - applications to demolish buildings;

- applications for works to trees covered by tree preservation orders and notifications of works proposed to trees located in conservation areas and to remove hedgerows;
 - applications for, removal or alteration of conditions;
 - applications for non-material amendments to existing planning permissions;
 - applications relating to power lines;
 - applications for a certificate of lawfulness of existing or proposed use or development;
 - prior notifications;
 - applications for development by telecommunications operators;
 - ;
 - applications for certificates of appropriate alternative developments;
 - applications for development from government departments;
 - consultation by neighbouring authorities and Derbyshire County Council.
- (7) “Major applications” mean those defined as such in the Town and Country Planning (Development Management Procedure) Order 2015, (including any consolidation, re-enactment or amendment thereto). “Non-major applications” means those not defined as major in the Town and Country Planning (Development Management Procedure) Order 2015 (including any consolidation, re-enactment or amendment thereto).
- (8) Legal agreements under s.106 of the Town and Country Planning Act 1990 are to be settled in liaison with the Legal and Democratic Services Manager or his/her nominated representative.
- (9) Enforcement notices under s.36 and Part III of the Building Act 1984 are to be served in liaison with the Legal and Democratic Services Manager.
- (10) Where the Council retains the building control function, the Council’s Scheme of Charges under the Building Regulations may be varied:
- by up to and including 10% in consultation with the Strategic Director (Corporate Resources)
 - by more than 10% in consultation with the Strategic Director (Corporate Resources) and the Chairman or Vice-Chairman of the Environmental and Development Services Committee, subject to all such decisions being reported to the next meeting of that committee.
- (11) Where an objection is received to an application for street naming or house numbering and that objection remains unresolved, delegated power to determine the application may be exercised only after consultation with the Chairman and Vice-Chairman of the Environmental and Development Services Committee.

Delegated powers in relation to the modification of Council dwellings to cater for chronically sick or disabled persons for minor adaptations is limited to a maximum value of £1,000 in any one case.

98.6 Cultural and Community Services Protocol

- (1) Delegated powers in relation to the determination of requests to hire commons, parks and recreation grounds do not include the refusal of such requests or the approval of requests not in accordance with the Council's standard terms and conditions of hire. Approvals are to be subject to relevant Ward Members being notified and, where practicable, in consultation with the appropriate Area Forum.
- (2) Delegated powers in relation to the Community Strategy for South Derbyshire are subject to the Community Strategy produced by the South Derbyshire Partnership and to the Partnership's Constitution. Reports monitoring performance of the Council's contributions to the Community Strategy will be reported to the Executive Board of the Partnership and relevant policy committees.

98.7 Economic Regeneration Protocol

Delegated powers in relation to Economic Regeneration are subject to the Economic Regeneration Strategy agreed by the Environmental and Development Services Committee, and to the Committee's individual approval of larger or more complex Economic Regeneration projects.

98.8 Environmental Services Protocol

Delegated powers in relation to housing, construction, regeneration and major adaptations in the public and private sectors do not include the refusal of applications for grants.

98.9 Licensing Protocol

- (1) Delegated powers in relation to the Council's functions under the Licensing Act 2003 must be exercised in accordance with the Statement of Licensing Policy for South Derbyshire District and, in particular, may not be exercised in respect of:
 - any application for a personal licence with unspent convictions;
 - any application to review a premises licence or club premises certificate;
 - any determination of a representation by a Responsible Authority on a temporary event notice, with the exception of where a Responsible Authority has requested the addition of conditions with agreement;
 - any application for a personal licence, to vary a designated personal licence holder, for the transfer of a premises licence, or for interim authorities, where a representation is made by Derbyshire Constabulary;

- any application for a premises licence or club premises certificate, a provisional statement, or to vary a premises licence or club premises certificate, if any representation is made and not withdrawn.
- (2) Delegated powers in relation to hackney carriages or private hire vehicles, operators and drivers do not include the refusal of applications or renewals. Delegated powers do not include the revocation of licences.

In the circumstances below the Executive Director – Law and People-Head of Legal and Democratic Services will have delegated powers to determine, grant, revoke or refuse the grant of a private hire driver's, vehicle or operator's licence;

- where there is an imminent/perceived threat of danger to the public and it is in the public interest to take immediate action;
- when a private hire vehicle fails a second Depot test;
- where a private hire driver or operator receives a conviction for a immigration offence or is issued with a immigration penalty
- where the applicant has disclosed spent convictions.

Delegated powers in relation to private hire drivers will include issuing a licence for less than 3 years if the applicant has time limited permission to work in the UK.

- (3) Delegated powers in relation to other licensing functions do not include the refusal of applications for licences or refusal for their renewal.
- (4) Delegated powers in relation to the Council's functions under the Gambling Act 2005 must be exercised in accordance with the Statement of Licensing Policy (Gambling) and Statement of Principles Gambling Act 2005 for South Derbyshire District and, in particular, may not be exercised in respect of:
- any application for a premises licence, or provisional statement, or to vary or transfer a premises licence, if any representation is made and not withdrawn;
 - any application to review a premises licence;
 - any application for a club gaming or club machine permit, if any representation is made and not withdrawn;
 - cancellation of club gaming, or club machine permits;
 - issuing a counter notice to a temporary use notice.

Contract Procedure Rules

For the supply of Goods, Services and works

PROCUREMENT

Being Economical

Buying Legally

Contributing to the Corporate Plan

Approved and Adopted in Part 4 (Section 28) of the Constitution

Contents

| | |
|---|----|
| 1. Definitions..... | 3 |
| 2. Compliance with the Rules and Relevant Legislation..... | 4 |
| 3. Contracts to which the Rules do not apply..... | 5 |
| 4. Exemptions from the Rules..... | 5 |
| 5. Contracts to which Rules on Tendering (Rules 12-18) do not apply – General..... | 6 |
| 6. Contracts to which Rules on Tendering (Rules 12-18) do not apply – Service Specific..... | 7 |
| 7. Register of Exemptions..... | 8 |
| 8. Schemes of Delegation..... | 8 |
| 9. Tender Process and Record Keeping..... | 8 |
| 10. Establishing the Value of the Contract/Expenditure per Contract..... | 9 |
| 11. Finance and Authorisation..... | 9 |
| 12. Pre-Qualification Requirements..... | 10 |
| 13. Best Value - Competitive Quotes and Tenders..... | 10 |
| 14. Tender Process to Use..... | 12 |
| 15. Invitations to Tender..... | 12 |
| 16. Receipt of Tenders (including under Framework Agreements) and Opening of Tenders..... | 13 |
| 17. Evaluation Criteria and Evaluation of Tenders..... | 13 |
| 18. Award of Contracts..... | 14 |
| 19. Signing and Sealing of Contracts..... | 15 |
| 20. Commencement of Contracts..... | 16 |
| 21. Terms and Conditions of Contracts..... | 16 |
| 22. Variations, Extensions and Renewals of Contracts..... | 17 |
| 23. Contract Management..... | 17 |
| 24. Non-compliance with the rules..... | 18 |
| 25. Seeking advise..... | 18 |
| 26. Associated Documentation..... | 19 |
| 27. Version Control..... | 19 |



1. Definitions

1.1. Definitions

For the purposes of the Rules:

- 1.1.1. Authorised Officers means the Chief Executive, Section 151 Officer (~~Strategic Director~~Executive Director – Resources and Transformation of Corporate Resources) and the Central Procurement Team (CPT).**

**** The Council's procurement function is provided under a Shared Service Arrangement through Derbyshire Shared Facilities Services based at Chesterfield NHS Foundation Trust**

Contract means an agreement which:

- i. may be oral, written, partly oral and partly written or implied from conduct between the Council and another person.
 - ii. gives rise to obligations which are enforceable or recognised by law (i.e. legally binding); and
 - iii. commits the Council to paying or doing something.
- 1.1.2. and, where the context requires, a reference to a contract means a contract to which the Rules apply, and a **“Call-off Contract”** means an order made/call-off contract entered into under a Framework Agreement.
- 1.1.3. **Designated Opening Officers** means officers designated to carry out the functions allocated to them in the Rules for the Receipt and Opening of Tenders (Section 16) including any third parties (such as consultants) approved by the ~~Strategic Director~~Executive Director – Resources and Transformation (Corporate Resources).
- 1.1.4. **Director** means the ~~Strategic Director~~Executive Director (Corporate Resources) – Resources and Transformation
- 1.1.5. **EU Tender** means a tender procedure, which needs to be carried out under European Union public procurement legislation. (***Although the UK has left the EU, the Treaty still applies in UK law until statute determines otherwise***).
- 1.1.6. **Framework Agreement** means a contract with a supplier or suppliers which establishes the terms and conditions (in particular as to price) under which Call-off Contracts can be made during the length of the Framework Agreement. This includes government pre-negotiated contracts.
- 1.1.7. **person** means any individual, partnership, local authority or incorporated or unincorporated body.
- 1.1.8. **Section 151 Officer** means the ~~Strategic Director (Corporate Resources)~~Executive Director - Resources and Transformation appointed under s151 of the Local Government Act 1972 and officers to whom the s151 Officer has delegated their functions in accordance with the relevant Scheme of Delegation; and
- 1.1.9. **Scheme of Delegation** has the meaning given to it under Rule 8 of the Contract Procedure Rules.



1.1.10. **Environmental management** is managing the environmental aspects and impacts of services, activities (including purchasing) and assets, to ensure compliance to SDDC Environmental Policy and ISO 14001 standard.

1.1.11. **Sustainability** is delivering environmental, economic and social gains.

2. Compliance with the Rules and Relevant Legislation

2.1. The Rules apply to all contracts for the provision of goods, services and works to the Council unless otherwise specified in the Rules. This means:

- i. **Purchase Orders** - All third-party expenditure should be covered by an official purchase order to enforce the '**No Purchase Order, No Pay**' policy throughout the Council.
- ii. **Payment Policy** – It is Council policy to settle all outstanding supplier liabilities by BACS, with the use of cheques phased out.
- iii. **Goods Receipt** – All goods, services and works covered by an official purchase order must be receipted before payment will be made against any invoices received by the Council – receipt must be made in accordance with the instructions specified in the Financial Procedure Rules, Appendix B1. Evidence of receipts should be kept by the recipient for audit purposes. All invoices received need to quote the official purchase order and be sent directly to Finance for invoice registration to ensure prompt processing. Invoices not quoting the purchase order will be returned to the supplier for clarification.

2.2. All contracts must comply with:

- i. European law; and
- ii. English law (including the Council's statutory duties and powers); and
- iii. the Rules and the Financial Procedure Rules; and
- iv. any relevant Council policies; and
- v. Any legal requirement stipulated by the ~~Strategic Director~~Executive Director (Corporate Resources) - Resources and Transformation.

2.3. All contracts must comply with the following principles of EU law where they continue to apply under the EU Treaty:

- i. free movement of goods and services; and
- ii. non-discrimination; and
- iii. openness/transparency; and
- iv. equal treatment for all; and
- v. proportionality.

- 2.4. The intention and spirit of the Rules must be adhered to.
- 2.5. The Rules must be complied with by all officers of the Council and all other persons who are authorised to carry out procurement and contracting on behalf of the Council (such as the Council's agents for property services) ("**Agents**").
- 2.6. It must be a term of all contracts between the Council and its Agents that the Agents comply with the Rules. Furthermore, Agents may undertake to conduct the Procurement Procedures detailed herein and associated negotiation on behalf of the Council, however, such Agents are not authorised to enter into a binding Contract on behalf of the Council.

3. Contracts to which the Rules do not apply.

3.1. The Rules do not apply to:

3.1.1. Contracts which are not for the provision of goods, services or works (e.g. grants or contracts relating to land). Note, therefore, that the Rules do not apply to contracts of employment, but they do apply to consultancy contracts, which are contracts for services.

3.2. Low value purchases which may be made from procurement cards (or petty cash for exceptional circumstances) provided that they are in accordance with any operational instructions and financial limits issued by the s151 Officer.

4. Exemptions from the Rules

4.1. Contracts with a value of £25,000 or more

4.1.1. The ~~Strategic Director (Corporate Resources)~~ relevant Executive may seek an exemption from any of the Rules from:

- i. A Committee acting under delegated powers; or
- ii. The Chief Executive acting under delegated powers along with the Leader of the Council.

4.1.2. In order to request an exemption the ~~Strategic Director (Corporate Resources)~~ the relevant Executive Director must prepare a report setting out:

- i. the reasons why the exemption is being requested and which Rule(s) an exemption is being requested from.
- ii. the process which is intended to be followed instead.
- iii. a legal appraisal and financial appraisal from the ~~Strategic Director~~ Executive Director (Corporate Resources) Resources and Transformation.

4.1.3. An exemption will only be granted where the Committee or the Chief Executive and Leader of the Council is satisfied that the exemption is justified on its own special circumstances.

4.1.4. Staff seeking an exemption should, in the first instance, contact the ~~Strategic Director~~ Executive Director (Corporate Resources) Resources and Transformation.



5. Contracts to which Rules on Tendering (Rules 12-18) do not apply - General.

5.1. Competitive quotes or tenders are not required for the following:

5.1.1. Call-off Contracts

- i. Call-off contracts where the relevant Framework Agreement has been entered into by:
- ii. the Council in compliance with the Rules; or
- iii. another local authority, a local authority purchasing consortium or central government where the Framework Agreement has been tendered and awarded in accordance with EU public procurement legislation.

For the avoidance of doubt, Call-Off Contracts must be entered into in accordance with the terms of the Framework Agreement (e.g. selection by mini-competition) and mini-competitions under Framework Agreements must be run in accordance with CPR 2.2 and 2.3.

5.1.2. Emergency

- i. In cases of emergency, the Chief Executive or ~~Strategic Director (Corporate Resources)~~ Executive Director - Resources and Transformation may verbally authorise and record in writing an exemption from the Rules for goods, services or works **provided that**:
 - a. the emergency was brought about by events which were not reasonably foreseeable by, or attributable in any way to, the Council (e.g. flood); and
 - b. If the goods, services or works are not received immediately, there is a significant risk of:
 1. danger to life; or
 2. damage to property; or
 3. a major impact on the Council or its service users.
- ii. In these cases only goods, services or works necessary or appropriate to safeguard the Council's position or protect life and property can be procured before formal approval is obtained.
- iii. The Chief Executive or ~~Strategic Director (Corporate Resources)~~ Executive Director - Resources and Transformation must at the earliest be informed of the action taken in dealing with the emergency. The ~~Strategic Director (Corporate Resources)~~ Executive Director - Resources and Transformation must also submit a report to the relevant Policy Committee that details the circumstances of and justifications for granting exemptions made in accordance with this Rule.

5.1.3. No competitive market

- i. Proprietary or patented goods or services are proposed to be purchased which, in the opinion of the Authorised Officer, are only obtainable from one



person, and it can be demonstrated that no reasonably satisfactory alternative to those proprietary or patented goods is available: or

- ii. The Authorised Officer can demonstrate that no genuine competition can be obtained in respect of the purchase of particular goods, services or works; or
- iii. The Authorised Officer is satisfied that the works or services are of such a specialist nature that they can only be carried out by one person (e.g. statutory undertakers); or
- iv. Goods are proposed to be purchased by or on behalf of the Council at a public auction; or
- v. Goods are proposed to be purchased which are of a specialist nature (such as antiquities for museums), provided that in all these cases (except for works which are primarily the responsibility of a utility or statutory undertaker as defined in s329 Highways Act 1980).
 - a. the Authorised Officer prepares a written statement explaining why the relevant circumstances apply and including why it is in the best interests of the Council for the contract not to be tendered and setting out the course of action proposed to be followed; and
 - b. the Authorised Officer receives written agreement from the s151 Officer and the ~~Strategic Director (Corporate Resources)~~ relevant Executive Director to pursue the course of action set out in the statement.
 - c. Authorised Officers, in conjunction with Legal Services, ensure that contract terms are appropriate considering all relevant factors (such as benefit and risk to the Council).

5.1.4. The exceptions in Rules 5.1.1 to 5.1.4 (inclusive) do not apply where the proposed course of action conflicts with EU public procurement legislation.

5.1.5. The rest of the Rules must still be complied with.

6. Contracts to which Rules on Tendering (Rules 12-18) do not apply - Service Specific.

6.1. Competitive quotes or tenders are not required for the following:

6.1.1. For the engagement of Counsel by the ~~Strategic Director~~ Executive Director (Corporate Services)- Resources and Transformation.

6.1.2. The exceptions in Rules 6.1.1 does not apply where the proposed course of action conflicts with EU public procurement legislation.

6.1.3. The rest of the Rules must still be complied with.

7. Register of Exemptions.

7.1. The Central Procurement Team will maintain a register of exemptions granted under Rule 4 (exemptions from the Council/Chief Executive/Committee) and will provide a copy of this register to the s151 Officer at least every six months, and otherwise as and when requested to do so by the s151 Officer.

8. Schemes of Delegation

- 8.1. The ~~Strategic Director (Corporate Resources)~~ Executive Director - Resources and Transformation must ensure that he has a Scheme of Delegation identifying:
- i. Authorised Officers; and
 - ii. the extent of Authorised Officers' delegated authority (including expenditure limits).
- 8.2. Authorised Officers may not, under any circumstances, act outside the delegated powers of the ~~Strategic Director~~ Executive Director - Resources and Transformation ~~(Corporate Resources)~~.
- 8.3. The ~~Strategic Director (Corporate Resources)~~ Executive Director - Resources and Transformation must ensure that all Authorised Officers receive the necessary training to be and remain conversant with the Rules.
- 8.4. The Monitoring Officer must supply to and agree with the s151 Officer their Schemes of Delegation before the start of each financial year, and on making any amendments.
- 8.5. The s151 Officer must keep a register of all Schemes of Delegation and supply a copy to the Monitoring Officer at the beginning of each financial year and notify the Monitoring Officer of any subsequent amendments.

9. Tender Process and Record Keeping

- 9.1. The Central Procurement Team must keep and maintain records in respect of each contract (from the time the project begins until the point at which the contract ends) in order to demonstrate the achievement of Best Value, openness, probity and compliance with the Rules including EU law where OJEU specific Tenders are placed.
- 9.2. Council staff must inform the Central Procurement Team of all contracts (including Call-Off Contracts) to be tendered (at least eight weeks before the tender process starts and preferably, prior to the start of the Financial Year).
- 9.3. For Contracts with a value > £25,000 it is the Council staff obligation to provide the Central Procurement Team with sufficient notice of intention to contract. If the Central Procurement Team is notified with sufficient time, then the contract opportunity will be placed on the Council Website to meet Community Consultation obligations.
- 9.4. All tenders must be led by the Central Procurement Team or an officer authorised by the ~~Strategic Director (Corporate Resources)~~ Executive Director - Resources and Transformation.



- 9.5. Any Employee of the Council found to be in breach of these Contract Procedure Rules shall be subject to the Council's Disciplinary Process.

10. Establishing the Value of the Contract/Expenditure per Contract

- 10.1. The value of a contract (that is, the expenditure per contract) means the actual or estimated amount payable by the Council to the supplier for the goods, services or works (excluding VAT) over the length of the contract (e.g. a three-year contract with an option to extend for 2 years under which £20,000 is payable per annum has a value of £100,000).
- 10.2. Goods, services and works contracts must not be split into smaller contracts in order to avoid any of the Rules.
- 10.3. Framework Agreements must not be entered into for more than four (4) years (including options to extend) unless otherwise advised by the ~~Strategic Director (Corporate Resources)~~Executive Director - Resources and Transformation.
- 10.4. For contracts of an indefinite length the value must be established on the basis that the contract will last for a period of 48 months (Four Years). **See also Rule 21.1.**
- 10.5. **Aggregated Spend (Contract Aggregation)** – For contracts already in place for a service delivery, and where additional spend is identified which is not covered by the existing contract i.e. it exceeds the estimated value of the contract, then advice must be sought from the ~~Strategic Director (Corporate Resources)~~Executive Director - Resources and Transformation or the Central Procurement Team.

11. Finance and Authorisation

- 11.1. Before entering into any process, which will or may result in the incurring any expenditure for the supply of goods, services or works be it capital or revenue, the Central Procurement Team must ensure that:
- i. where it is a key decision, the requirements of Article 13 Section 13.2 of the Constitution have been complied with:
 - ii. adequate financial provision is included in the Council's approved revenue budget or capital programme (as appropriate) and that such expenditure continues to be available in accordance with the Financial Procedure Rules; and
 - iii. the provisions of the Financial Procedure Rules have been complied with (including, without limitation, FPR Section D, D2.15 to D2.22); and iv. Written authorisation has been obtained from the Section 151 Officer.
- 11.2. The ~~Strategic Director (Corporate Resources)~~Executive Director - Resources and Transformation must be notified before officers enter into any process which:

- i. will or may result in any transfers of staff under the Transfer of Undertakings (Protection of Employment) Regulations (“TUPE”) and any of the staff are or were previously Council employees; or
- ii. will or may result in any transfers of staff under TUPE who members of the Council’s Pension Scheme are.

11.3. The ~~Strategic Director (Corporate Resources)~~ Executive Director - Resources and Transformation must be notified before officers enter into any process, which will or may result:-

- i. in a contract that confers exclusive possession of the Council’s premises or
- ii. in the acquisition by the Council of a property interest.

11.4. Where there is a corporate contract (i.e. contract for the benefit of the Council as a whole) for the supply of goods, services or works, no other contract may be used for the supply of those goods, services or works unless this has been authorised in advance in writing by the ~~Strategic Director~~ Executive Director - (Corporate Resources) Executive Director - Resources and Transformation.

12. Pre-Qualification Requirements

12.1. The Central Procurement Team will undertake any required Pre-Qualification exercise.

13. Achieving value for money - Competitive Quotes and Tenders

13.1. For contracts worth less than £25,000, ~~Unit Managers~~ Officers must take practicable steps to secure value for money through a combination of cost and quality by clearly defining the business requirement and seeking offers at the lowest cost commensurate with meeting that business requirement.

13.2. For contracts worth £25,000 ~~to £50,000 or more~~, the Central Procurement Team must take practicable steps to secure value for money through a combination of cost, quality and competition, utilising a formal request for quotation process. The Central Procurement Team must ~~also~~ comply with the requirements of Rule 17 relating to the drawing up of evaluation criteria.

13.3. For all contracts of ~~£25,000-50,000~~ or above competitive quotations or tenders must be sought as set out in the following table, The Central Procurement Team must take practicable steps to secure value for money through a combination of cost, quality and competition. The Central Procurement Team must also comply with the requirements of Rule 17 relating to the drawing up of evaluation criteria.

~~13.3.13.4.~~ ÷



Goods, Services and Works

| Estimated cumulative expenditure per contract | Competition Requirements |
|--|--|
| Up to £5,000 | <u>Officer discretion</u> |
| Between £5,001 and £25,000 (Quotations) Up to £1,000 (Quotations) | Heads of Service must ensure genuine competition by inviting sufficient numbers of persons (good practice indicates a minimum of 3 selected impartially) to submit written quotations for the goods, services or works required by the Council. Some degree of advertising may be required, preferably on the Source Derbyshire SDDC e-tendering Portal/Contracts Finder. Budget holders must ensure Value for Money by obtaining 3 quotations (if possible). |
| Between £1,000 25,001 and £25,000 50,000 (Formal Request for Quotations [RFQ]) | Heads of Service must ensure genuine competition by inviting sufficient numbers of persons (good practice indicates a minimum of 3 selected impartially) to submit written quotations via the Council's Request for Quotation (RFQ) mini competition tender process, for the goods, services or works required by the Council. Advertising should be undertaken via Source Derbyshire Portal or the Contracts Finder. Heads of Service must ensure genuine competition by inviting sufficient numbers of persons (good practice indicates a minimum of 3 selected impartially) to submit written quotations for the goods, services or works required by the Council. Some degree of advertising may be required, preferably on the Source Derbyshire Portal. |
| £25,000 50,001 or above but less than the relevant EU directive threshold. (Tenders) | Heads of Services must refer the procurement exercise to the Central Procurement Team <u>to undertake a formal tender process</u> |
| Equal to or exceeding the financial thresholds stated in the relevant EU Directive | As above. |

~~13.4.~~**13.5. Suppliers** – All proposed new suppliers must be approved by the Central Procurement Team prior to any contract or works.

~~13.5.~~**13.6. Local Suppliers** – The Council has a stated objective to wherever possible, try and support local business. To help achieve this objective, all tenders should advertised in the Source Derbyshire portal and involve local suppliers wherever possible. For the purposes of these CPRs a local supplier is deemed to be a supplier who pays local business rates to South Derbyshire District Council or is based within a 25-mile radius of DE11 0AH.



14. Tender Process to Use

- 14.1. Before progressing with a tender exercise, the decision on which process to use needs to be taken by the Central Procurement Team, after who will liaising with the relevant Executive Director and/or the Strategic Director (Corporate Resources) Executive Director - Resources and Transformation, depending on the value of the contract.

Further guidance on each of these processes, including timescales is detailed in the *Procurement Strategy and Guidance Notes*.

Where a tender process involves subsequent dialogue with tenderers and in particular those involving competitive dialogue or a negotiated procedure, this must be led by the CPT supported by the Client Department.

- 14.2. Tenders are to ensure that sustainability is factored into all bids therefore “100% price tenders” are prohibited.

15. Invitations to Tender

- 15.1. The Central Procurement Team shall ensure that all invitations to tender:
- i. clearly specify the goods, services or works that are required (subject to appropriate adjustment where the competitive procedure with negotiation, competitive dialogue or innovation partnership procedure is being used).
 - ii. In the case of the Negotiated Restricted Process (i.e.: under standing orders and outside OJEU) make it clear to all tenderers that there is final stage where the top scored tenders will be invited for final interviews. At and following final interviews bidders will have the opportunity to answer the Council's questions for clarification and to submit revised prices. This stage must be led by CPT supported by an officer of the Client Department.
 - iii. for all Tenders, list the criteria on which tenders will be evaluated (see Rule 17) showing the weighting of the various criteria. The scoring methodology will also be detailed.
 - iv. include a requirement for tenderers to declare that the tender content, price and all other figures or particulars concerning the tender have not been disclosed by the tenderer to any other party.
 - v. include a requirement for tenderers to complete fully and sign all tender documents including certificates confirming that no canvassing or collusion has taken place; and
 - vi. state that the contract will be on the Council's standard terms and conditions of contract which are to be enclosed with the invitation to tender and also available on the Council's website.
- 15.2. Wherever possible, contracts must require goods, services and works to be in accordance with a specified European or British Standard (where this applies).

16. Receipt of Tenders (including under Framework Agreements) and Opening of Tenders

- 16.1. Authorised Officers must comply with the Council's Procedures for Receipt and Opening of Tenders as set out below.
- 16.2. All tenders shall be received electronically via a secure e-tendering portal owned or operated on behalf of the Council.
- 16.3. All tenders received, including mini-tenders under Framework Agreements, must remain locked in a secure vault within the e-tendering portal until the specified closing date and time for receipt of tenders has passed.
- 16.4. The secure vault shall be unlocked, and all tenders released electronically, by the CPT. Electronic copies of all tender documents submitted shall remain in the portal in a secure tamperproof area.
- 16.5. An electronic audit log shall be kept within the e-tendering portal showing all actions conducted by all parties.

17. Evaluation Criteria and Evaluation of Tenders

- 17.1. In determining the relevant evaluation criteria on which tenders are to be assessed, Authorised Officers and relevant Council Staff must consider all factors relevant to their requirement, including environmental and social considerations, so far as this is lawful.
 - 17.1.1. All categories shall be 'weighted' to ensure price, quality, environment and social aspects are considered holistically and that sustainability of tender supports the achieving value for money (section 7). This can be done by understanding.
 - i. "whole life costing impact" of purchase (materials, manufacture, maintenance, quality and end of life) and
 - ii. Environmental management of its activities/services.
- 17.2. The evaluation process will clearly demonstrate that the Council is seeking to identify the Achieving best value tender (see Rule 13).
- 17.3. The CPT will ensure that all tenders and mini competitions are evaluated by a panel including the Council's Client Department, technical and financial officers (if appropriate) and appointed external consultants, in accordance with the evaluation criteria specified in the invitation to tender.
- 17.4. The arithmetic in compliant tenders, including mini tenders under Framework Agreements, must be checked. If arithmetical or clerical errors are found they should be notified to the tenderer, which should be requested to confirm the correct figures/wording or withdraw its tender.
- 17.5. Authorised Officers must compare submitted tender prices with any project appraisal or pre-tender estimates. All differentials must be considered. For tender prices of £25,000 or more where the differential is more than 20% above or below the project appraisal or pre-



tender estimate, the reason must be determined, and this must be reported to the Strategic Director (Corporate Resources) Executive Director - Resources and Transformation.

- 17.6. In cases as set out in Rule 17.5 for goods and services, a tender must not be accepted unless this has been authorised by the Strategic Director (Corporate Resources) Executive Director - Resources and Transformation. For capital expenditure, authorisation of acceptance of variations must be in accordance with the FPR Section B, B2.38 of the Finance Procedure Rules.
- 17.7. Final evaluated scores will be checked by a member of the Central Procurement Team and counter checked by a member of the Finance Team and/or the Client Department to ensure accuracy.

Equality, Inclusion and Diversity

- 17.8. In making decisions to award, the Council must consciously consider the need to: eliminate discrimination, advance equality of opportunity, and foster good relations. This should be proportionate to the service or goods being procured.
- 17.9. It is an on-going obligation and therefore should be considered during pre-procurement, the procurement itself and through contract management. Where relevant, Contractors should be required (by way of inclusion of specific contract terms) to take steps to assist the Council to comply with its duty under the Equality Act 2010.
- 17.10. All contractors will be expected to comply with national equality legislation to deliver services fairly and without unlawful discrimination. The Council’s Procurement Team can provide advice on the necessary questions that are required to be raised with all contractors within the tender documents and how the responses should be evaluated.

18. Award of Contracts

- 18.1. Contracts may only be awarded by the Council if there has been full compliance with the Rules and the Financial Procedure Rules.
- 18.2. Tenders may be evaluated and recommended for acceptance by the following officers:

| Cumulative value of contract | Acceptance by |
|------------------------------|-----------------|
| Tender not exceeding £25,000 | Head of Service |



| | |
|---------------|---|
| Above £25,000 | Strategic Executive Director |
|---------------|---|

- 18.3. No tender can be accepted, or contract awarded unless this is on the basis of the evaluation criteria sent out with the invitation to tender.
- 18.4. Successful and unsuccessful tenderers (and, for EU Tenders, and those persons who expressed an interest in the contract) must be notified of the award of the contract for which they have submitted a tender. This notification letter must be in a form approved by the Central Procurement Team.
- 18.5. Where there has been an EU Tender, and in such other circumstances as the ~~Strategic Director (Corporate Resources)~~ Executive Director - Resources and Transformation may advise, the award of the contract must be subject to the legally required standstill period to enable unsuccessful bidders to challenge the award prior to completion of the contract (see Rule 20.1). Where there is a court challenge prior to completion of the contract then the contract must not be completed without the authorisation of the ~~Strategic Director (Corporate Resources)~~ Executive Director - Resources and Transformation.
- 18.6. Where a key decision was required to authorise the entering into of the procurement process under Rule 11, the contract must not be awarded unless that decision has been complied with (for example, a new decision may be required prior to award or if any of the risk factors have changed).
- 18.7. Where a key decision was not required to authorise the entering into of the procurement process under Rule 11 but due to the price of the winning bid it has become a key decision, the requirements of Article 13 Section 13.2 of the Constitution must be complied with before the contract is awarded.

19. Signing and Sealing of Contracts

19.1. Contracts, which are not call-off Contracts

- 19.1.1. Where there has been an EU Tender, and in such other circumstances as the ~~Strategic Director (Corporate Resources)~~ Executive Director - Resources and Transformation may advise, the contract must not be entered into with the successful tenderer unless and until the mandatory standstill period has elapsed without a challenge from an unsuccessful tenderer (see also 18.5).
- 19.1.2. Contracts shall be drawn up with support of the legal team.
- 19.1.3. Heads of Service with delegated powers must sign contracts up to £25,000 in value (see Rule 8).
- 19.1.4. Save as set out in Rule 20.1.1, two authorised officers of the Council must sign all contracts which are worth £25,000 or more in value. For the purposes of contract signing authorised officers are Chief Executive and ~~Strategic Director~~ Executive Directors. For the avoidance of doubt, no elected or co-opted Member of the Council may sign any contract for or on behalf of the Council

19.1.5. Any contract requiring the additional limitation of 12 years rather than the 6 years for court proceedings in the event of default must be sealed as a deed by the ~~Strategic Director (Corporate Resources)~~Executive Director - Resources and Transformation. This is particularly relevant to construction contracts in the case of latent defects.

19.2. Call-off Contracts

19.2.1. *Council Framework Agreement with no new terms*: Where a Call-off Contract is entered into under a Framework Agreement which has been set up by the Council and no new terms are being introduced (e.g. under a mini-competition), the Call-Off Contract does not have to be signed or sealed (unless required in accordance with the terms of the Framework Agreement) BUT the Call-off Contract must be authorised as set out in Rule 11 and under the Financial Scheme of Delegation and approved by the Central Procurement Team.

19.2.2. *Council Framework Agreement with new terms*: Where a Call-Off Contract is entered into under a Framework Agreement which has been set up by the Council and new terms have been introduced (e.g. following a mini-competition), the Call-Off Contract must be signed or sealed as set out in 19.1.1 to 19.1.3 (inclusive) unless otherwise agreed by the ~~Strategic Director (Corporate Resources)~~Executive Director - Resources and Transformation.

19.2.3. *Third Party Framework Agreements*: Where a Call-off Contract is entered into under a Framework Agreement which has been set up by a third party, the Call-Off Contract must be signed or sealed as set out in 18.1.2 to 18.1.3 (inclusive) unless otherwise agreed by the ~~Strategic Director (Corporate Resources)~~Executive Director - Resources and Transformation

20. Commencement of Contracts

20.1. No supply of goods, services or works must commence until all contract documentation is duly completed (see Rule 19), except:

20.1.1. In cases of emergency falling under Rule 5.3, in which case the contract must be completed at the earliest opportunity.

20.1.2. Where otherwise approved by the ~~Strategic Director~~Executive Director (Corporate Resources) - Resources and Transformation

21. Terms and Conditions of Contracts

21.1. Terms and conditions shall be drawn up with support of the legal team.

21.2. Terms and conditions for all contracts for goods, services and works with a value of £25,000 or more (and preferably all other contracts, particularly consultancy contracts) must be in accordance with the Council's standard terms and conditions prepared or approved by the ~~Strategic Director (Corporate Resources)~~Executive Director - Resources and Transformation, unless otherwise agreed by the ~~Strategic Director (Corporate Resources)~~Executive Director - Resources and Transformation.



- 21.3. All contracts with a value of £25,000 or more must include a clause empowering the Council to terminate the contract for corruption and to recover from the supplier the amount of any loss resulting from such termination in a form approved by the Strategic Director (Corporate Resources) Executive Director - Resources and Transformation.

21.4. Key Performance Indicators

- 21.4.1. ensure that relevant corporate and service level plan objectives are included in the Terms and Conditions and applicable reportable timeframes for data is in place to be sent back to the contract manager at the council.

22. Variations, Extensions and Renewals of Contracts

- 22.1. Where an Authorised Officer wishes to exercise an option in a contract to extend that contract, this must be referred to the Central Procurement Team and Legal Services for advice.
- 22.2. Where an Authorised Officer wishes to re-negotiate the price payable under a contract, vary the contract materially or extend/renew a contract where there is no option to extend it in the contract, this must be referred to Legal Services and the Central Procurement Team before negotiations are entered into as there may be a new contract in these circumstances to which the Rules must be applied.
- 22.3. In determining whether to vary, extend or renew a contract, a full value for money assessment should be undertaken to determine the best option at that particular time. An option to extend a contract should not be automatically invoked without some justification. Consultation should be undertaken as appropriate with Finance and Procurement.

23. Contract Management

23.1. Environmental and Health and Safety Management

23.1.1. Shall have in place (as per tender and/or quotation).

- i. Health and Safety Management System.
- ii. Environmental Management System or confirmation to adhere to the Council's STEMS system (ISO 14001)
- iii. Quality Management system (as required)

A Contract maybe audited to ensure compliance to these systems to ensure compliance for undertaking

- 23.1.2. The contractor is responsible for supervising their own staff and for ensuring that they work safely. The Councils role is to ensure that they fulfil these obligations and that the contractor appointed is competent to undertake the task. Copies of the below should be available to request.

- i. Copies of competencies of all staff shall be retained by the contractor but maybe called on



- ii. RAMS (Risk Assessments and Method Statements) including COSHH assessments

23.1.3. Before commencing works on behalf of the Council, a Contractor induction shall be completed as per STEMS-10

23.2. Contract Delivery

The client or commissioning Department is responsible for the proper monitoring of contracts and third parties in accordance with the terms and conditions and any performance targets. Besides the qualitative aspects, this should also include financial performance to ensure that budgets and contractual amounts are not exceeded. This should be undertaken within the Council's Budget Monitoring Framework.

23.3. Contract Meetings

Contractual performance should be reviewed on a regular basis and although this could vary depending on the nature and operation of each Contract, this should be undertaken on at least an annual basis.

24. Non-compliance with the rules

- 24.1. Any non-compliance with any of the Rules must be notified to the ~~Strategic Director (Corporate Resources)~~ Executive Director - Resources and Transformation (as s151 Officer)
- 24.2. If non-compliance has given rise to or is likely to give rise to illegality or maladministration, the ~~Strategic Director (Corporate Resources)~~ Executive Director - Resources and Transformation (as s151 Officer) will notify the Monitoring Officer or in the event of a conflict of interest, the Chief Executive.
- 24.3. If the Rules are not complied with, this will not invalidate any contract entered into by or on behalf of the Council, except where European or English law provides to the contrary.

25. Seeking advice

Officers requiring advice on procurement practice and EU requirements should contact the Central Procurement Team at: procurement@south-derbys.gov.uk

Officers requiring contracts, terms and conditions or legal advice should contact Legal Services.



26. Associated Documentation

| Description of Documentation | |
|---|--|
| Corporate Plan | 2020-24 |
| Procurement Strategy and Framework | 2020-2024 |
| SDDC – General Terms and Conditions for contact | Version: June 2019 |
| Environment Management System | STEMS-01 |
| Procedure forms | <ul style="list-style-type: none"> • Pre-procurement analysis for contracts • Procurement checklist for tender exercises • Tender report • New supplier form • Permission to setup new supplier form • Quotation waiver form • Exemption from the Tendering Rules |
| Guidance | <ul style="list-style-type: none"> • Selling to the council – a practical guide • Purchase order conditions |

27. Version Control

| Version | Changes | Date |
|----------|---|-----------------|
| 1 | Full review of procedures | May 2017 |
| 2 | Update on procedures following Senior Management Restructure | June 2018 |
| 3 | Update to include environmental aims following ISO 14001 audit and supporting update to Environmental Policy 2021. In addition, version reflects the new Equality, Inclusion and Diversity Strategy 2020 to 2024. | April 2021 |
| <u>4</u> | <u>Update with revised contract procurement thresholds and minor changes in relation to the Council's new management structure.</u> | <u>May 2024</u> |

