

- (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

(b) **Scrutiny.**

Overview and Scrutiny Committees may:

- (i) review and scrutinise the decisions made by the Executive, its Committees, Area Committees, and officers when exercising executive functions, both in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;

(iii) consider referrals from Members who are not members of the Overview and Scrutiny Committee of any matter relevant to the Committee's functions, which is not an excluded matter. An excluded matter is defined as a local crime and disorder matter within the meaning of section 19 of the Police and Justice Act 2006. A matter which consists of an allegation of systemic failure of an authority to discharge a function for which the authority is responsible may be referred to an Overview and Scrutiny Committee, notwithstanding the fact that the allegation specifies matters which would otherwise be excluded.

- (iv) question members of the Executive, Area Committees and other bodies, and Chief Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (v) make recommendations to the Council, the Executive, Area Committees and other appropriate bodies, arising from the outcome of the scrutiny process;
- (vi) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance;

(vi) question and gather evidence from any person (with their consent); and

(vii) consider any request submitted by a Member of the Council under the Council's 'Councillor Call for Action' (CCFA) procedure, having regard to any guidance issued by the Monitoring Officer. If the Overview and Scrutiny Committee decides to accept the CCFA referral, it must decide how it intends to take the matter forward and include the CCFA in its work programme.

(c) **Finance**

Overview and Scrutiny Committees will exercise overall responsibility for the finances made available to them.

(d) **Annual Report**

Overview and Scrutiny Committees will report annually to the Full Council on their workings and decide on future work programmes and amended working methods if appropriate.

(e) **Officers**

Overview and Scrutiny Committees may exercise overall responsibility for the work programme of any officers specifically employed to support their work.

6.04 **Proceedings of the Overview and Scrutiny Committees**

Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

6. **Quorum**

The quorum for a Scrutiny Committee shall be three voting members, as set out for bodies in the Council Procedure Rules in Part 4 of this Constitution.

7. **Chairs and Deputy Chairs of Scrutiny Committees**

Chairs and Deputy Chairs of Scrutiny Committees/sub-groups will be drawn from among the Councillors sitting on the Committee/sub-group, and subject to this requirement the Committees/sub-group may appoint such a person as it considers appropriate as Chair.

8. **Work Programme**

The Scrutiny Committee will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that Committee who are not members of the largest political group on the Council, as well as the statutory education representatives and any other co-optees where relevant.

In developing their work programme, Scrutiny Committees should consult widely to ensure that a range of stakeholders, information and intelligence inform its work.

9. **Agenda Items**

Agenda items for the Scrutiny Committees shall be set either by members calling in particular decisions of the Executive or by the members of each Committee identifying issues which they wish to consider, for example through reviewing the Executive's monthly Forward Plan programme of forthcoming items of business.

Any member of a Scrutiny Committee or sub-group (including the statutory education representatives) shall be entitled to give notice to the Monitoring Officer that he/she wishes an item relevant to the functions of the Committee or sub-group to be included on the agenda for the next available meeting of the Committee or sub-group. On receipt of such a request the Monitoring Officer will ensure that it is included on the next available agenda. The Committee shall then determine whether it wishes to pursue the item suggested by the member.

The Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate, the Cabinet, to review particular areas of Council activity. Where they do so, the Scrutiny Committee shall report their findings

and any recommendations back to the Cabinet and/or the Council. The Council and/or the Cabinet shall normally consider the report of the Scrutiny Committees at the first available meeting.

Community Assemblies shall have the right to draw matters to the attention of the Scrutiny Committees and ask them to consider putting the matter in their work programme. Community and voluntary groups shall be able to contact the Chairs and/or Deputies of the Scrutiny Committees to suggest issues to be considered by the Committees.

Any member who is not a member of the Overview and Scrutiny Committee may refer any matter relevant to the Overview and Scrutiny Committee's functions to that Committee. The Member should give notice to the Monitoring Officer. On receipt of such a request, the Monitoring Officer will ensure that it is included on the next available agenda. The Committee shall then determine whether it wishes to pursue the item suggested by the Member.

10. **Policy Review and Development**

Each Scrutiny Committee has a function to scrutinise policy outcomes and advise on policy development within its remit. They are the key mechanism for enabling Councillors to represent the views of their constituents and other organisations to the Cabinet and Council and hence to ensure that these views are taken into account in policy development.

The Cabinet shall consult and involve the Scrutiny Committees in developing draft policies to propose to the Council.

Scrutiny Committees will have access to the Cabinet's forward plan and timetable for decisions and intentions for any consultation. Even where an item is not the subject of detailed proposals from a Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

The role of the Scrutiny Committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.

In relation to the development of the Council's approach to other matters not forming part of its Policy and Budget Framework, Scrutiny Committees or sub-groups may make proposals to the Cabinet for

Article 11 – Joint Arrangements**11.01 Arrangements to Promote Well-being**

The Council or the Executive, 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.

11.02 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities (including non-principal authorities) to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of Joint Committees with these other local authorities. The appointment of individuals to Joint Committees which exercise non-executive functions is a function of the Full Council.
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of Joint Committees with these other local authorities. The appointment of individuals to such Joint Committees exercising executive functions is itself an executive function and, unless provided otherwise in any particular case by the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012, only members of the Executive may be appointed to such Joint Committees.
- (c) The Council may, with the agreement of the Executive, establish joint arrangements with one or more local authorities to exercise functions some but not all of which are executive functions. Such arrangements may involve the appointment of Joint Committees with these other local authorities. Appointments of individuals to a Joint Committee exercising both executive and non-executive

functions will be made by Full Council with the agreement of the Executive.

~~(e)~~(d) The Council nominates representatives to the South Yorkshire Joint Authorities ~~and Joint Committees.~~

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~~(d)~~(e) The Council and the Executive must maintain a list and details of the joint arrangements they have established.

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11.03 Procedure for Joint Committees

The Access to Information Procedure Rules in Part 4 of this Constitution apply to Joint Committees.

If all the members of a Joint Committee are Executive Members in each of the participating authorities then its Access to Information regime is the same as that applied to the Executive.

If the Joint Committee contains Members who are not Executive Members of any participating authority then the Access to Information regime in Part VA Local Government Act 1972 will apply.

11.04 Delegation to and from other Local Authorities

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- (b) Arrangements can only be made for a non-executive function to be carried out by the Executive of another local authority if that function is the responsibility of that other authority's Executive.
- (c) The Executive may delegate executive functions to another local authority or the Executive of another local authority in certain circumstances.
- (d) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Full Council in respect of non-executive functions and to the Leader in respect of executive functions.

11.05 Contracting Out

responsibility for all staff.

Providing advice

The Head of the Paid Service will provide professional advice to all Members involved in the decision-making process, both executive and non-executive.

Service strategies

The Head of the Paid Service will advise and assist in formulating service policies and programmes which are affordable and effective and make the best use of available resources in achieving Council priorities;

Emergency and urgency powers

The Head of the Paid Service, or in his/her absence his/her designated deputy, has the power to act in cases of emergency or urgency to discharge all the non-executive functions delegated to other Officers in consultation, where possible, with the Leader or in the Leader's absence his/her designated deputy.

The power of the Head of the Paid Service to discharge executive functions in cases of emergency or urgency shall be provided for in the Leader's Scheme of Delegation of Executive Functions from time to time in force and if not so provided for the Head of the Paid Service, or in his/her absence his/her designated deputy, shall be deemed to have the power to exercise all the Council's executive functions in such circumstances.

Restrictions on functions

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

12.03 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 consultation by Councillors, officers and the public.

(b) **Ensuring lawfulness and fairness of decision making**

After consulting with the Head of the Paid Service, Director of Legal Services and Chief Finance Officer, the Monitoring Officer will report to the Full Council in relation to a non-executive function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or to maladministration. The Monitoring Officer will report to the Executive in relation to an executive function, if he or she considers that any proposal, decision or omission would give rise to

unlawfulness and may report if he or she considers that any proposal, decision, or omission would give 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) **Unlawfulness, maladministration or injustice by the Executive**
Where a proposal, decision or omission that has led to unlawfulness, maladministration or injustice relates to an executive matter, the Monitoring Officer will report to the Executive and the Executive must, within 21 days of receiving the report, consider it at a meeting of the Executive. The Executive must ensure that no further action is taken in respect of the proposal or decision until the report has been considered. As soon as practicable after considering the Monitoring Officer's report, the Executive shall prepare a report that will include:
- i) what action the Executive has taken in response to the report;
 - ii) what action the Executive proposes to take in response to the report and when it proposes to take that action; and
 - iii) the reasons for taking that action, or the reasons for not taking any action;

and as soon as practicable after the Executive has prepared this report it shall arrange for a copy of the report to be circulated to all Members of the Council and the Monitoring Officer.

- (d) **Unlawfulness, maladministration or injustice by the Council**
Where the proposal, decision or omission that has led to unlawfulness, maladministration or injustice relates to a non-executive matter, the Council must, within 21 days of receiving it, consider the report at a meeting of the Council. The Council must ensure that no further action is taken in respect of the proposal or decision until the report has been considered.

- ~~(e) **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.~~

(e) **Members' Conduct**

The Monitoring Officer will contribute to supporting the statutory duty to promote and maintain high standards of conduct for its Elected Members under the Localism Act 2011 by maintaining the Members' Code of Conduct and providing a process for investigating complaints under the Code.

The Monitoring Officer will also:

- (a) work closely with the Independent Person and the Standards Committee in dealing with issues relating to Members' conduct.
- (b) submit a bi-annual report to Council in relation to alleged breaches of the Members' Code of Conduct.
- (c) provide advice to the Council and individual members in relation to standards issues.
- (d) maintain a statutory register of Members' interests.

~~(f) **Receiving reports**~~~~The Monitoring Officer will receive and act on reports made by Standards for England ethical standards officers and decisions of the case tribunals.~~~~(g) **Conducting investigations**~~~~The Monitoring Officer will conduct investigations into matters referred by ethical standards officers or by the Standards Committee and make reports or recommendations in respect of them to the Standards Committee.~~~~(fh) **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.~~~~(gi) **Advising whether executive decisions are within the Budget and Policy Framework**~~~~The Monitoring Officer will advise whether decisions of the Executive are in accordance with the Budget and Policy Framework.~~~~(h) **Providing advice**~~~~The Monitoring Officer will provide advice to all Councillors on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues.~~~~(i) **Restrictions on posts**~~~~The Monitoring Officer cannot be the Chief Finance Officer or the Head of the Paid Service.~~**12.04 Functions of the Chief Finance Officer**

- (a) Ensuring lawfulness and financial prudence of decision making**

MONITORING OFFICER PROTOCOL

1. STATUTORY RESPONSIBILITIES

- 1.1 The Monitoring Officer is a statutory appointment pursuant to Section 5 of the Local Government and Housing Act 1989 This Protocol sets out the Monitoring Officer's role in relating to the statutory duty to promote and maintain high standards of conduct under the Localism Act 2012.
~~This Protocol provides some general information on how the statutory functions under Part III Local Government Act 2000 (the Act) in relation to Conduct of Local Authority Members will be discharged.~~
- 1.2 The role of the Monitoring Officer rests with the ~~Deputy Chief Executive~~Director of Legal Services. The Monitoring Officer may nominate a member of staff to act as Deputy Monitoring Officer while absent or ill and has appointed the Deputy Directors of Legal Services as Deputy Monitoring Officer. The Deputies will act only in the absence of the Monitoring Officer if urgent action is required that cannot await his or her return.
- 1.3 This Protocol should be read in conjunction with Articles 12 and 15 which sets out all Monitoring Officer functions. It should also be read in conjunction with the procedure for investigating standard complaints. A summary list of the statutory functions of the Monitoring Officer under the Act appears in the attached Schedule.

2. WORKING ARRANGEMENTS

- 2.1 It is vital that Members and Officers work with the Monitoring Officer and his or her staff, to effectively discharge the Council business, statutory responsibilities and promote the corporate health of the Council.
- 2.2 The Monitoring Officer's duties will be discharged in accordance with the Council's Constitution, legislative requirements and relevant Government guidance. The Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:-
- (a) complying with the law (including any relevant Codes of Conduct);
 - (b) complying with any general guidance, codes or protocols issued from time to time, by the ~~Standards Committee and the~~ Monitoring Officer;
 - (c) making lawful and proportionate decisions;~~:-and~~
 - (d) generally, not taking action that would bring the Council, their offices or professions into disrepute;~~:-~~
 - (e) seeking early advice on issues relating to constitutional or ethical matters;

- (f) raising alerts to issues that may become of concern to the Authority about legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise; ~~and-~~
- (g) Reporting to the Monitoring Officer at the earliest opportunity convictions of criminal offences which might amount to a breach of the Members Code of Conduct.

2.3 The Monitoring Officer will:

- 2.3.1 Have advance notice and access to information (including agendas, minutes, reports and related papers) of all relevant meetings of the Authority, (including meetings at which Officer delegated decisions are taken) at which a binding decision may be made (including meetings where there may be a failure to take a decision which should be taken);
- 2.3.2 Have the right to attend (and be heard) any meeting of the Authority (including meetings at which Officer delegated decisions are taken) before any binding decision is taken (including a meeting where there may be failure to take a decision where one should be taken).
- 2.3.3 Have advance notice of Executive Management Team meetings, agendas, reports and the right to attend and speak at those meetings. Meet regularly with the Head of Paid Service and the Section 151 Officer to consider and recommend action in connection with corporate Governance issues, matters of concern regarding legal, ethical standards probity, procedural, constitutional issues that are likely and do arise;
- 2.3.4 In undertaking or arranging investigations will have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of the functions.
- 2.3.5 Report to Council as necessary on resources

3. RELATIONSHIPS

- 3.1 The Monitoring Officer will develop effective working liaison and relationship to ensuring effective and efficient discharge of Council business with:
 - (a) The Lord Mayor, Chairs of Cabinet, Scrutiny, Regulatory, Standards Committees of the Council; and
 - (b) ~~Standards Board for England, the~~ The District Auditor and the Local Government Ombudsman or their successors;

- 3.2 Refer any breaches to, or give and receive any relevant information, whether confidential or otherwise, (through appropriate protocols, if necessary), to the bodies in 3.1 (b).

4 — STANDARDS MATTERS**4.1 — The Monitoring Officer shall:**

- ~~4.1.1 give informal advice and undertake relevant enquiries into allegations of misconduct (in the absence of a written complaint being received by the Standards Committee);~~
- ~~4.1.2 upon receipt of written allegations to follow the 'Initial Assessment of Standard Complaints' at section 5~~
- ~~4.1.3 ensure effective communication between his or her office and clerks to parish councils;~~
- ~~4.1.4 maintain and update relevant statutory registers for the declaration of members interests, gifts and hospitality~~
- ~~4.1.5 report annually to the Standards Committee regarding whether the arrangements set out in the Protocol have been complied with and will include any proposals for amendments in the light of any issues that have arisen during the year.~~

5.4. PROCEDURE FOR DEALING WITH STANDARDS COMPLAINTS
INITIAL ASSESSMENT OF STANDARDS COMPLAINTS

The role of the Monitoring Officer, or Deputy Monitoring ~~Officer~~ Officer on the discharge of functions in relation to the ~~initial assessment and review of allegations~~ procedure for dealing with Standards complaints that a member of the Authority has failed to comply with the Code of Conduct, will be as follows:

Complaints

- 1 Allegations of breaches of the Code of Conduct should be made in writing to the Monitoring Officer by any Elected Member, Officer, and partner of the Council or resident of Sheffield.
- 2 The Monitoring Officer will decide if this allegation is a potential breach of the code. If the matter complained of does not constitute a potential breach of the code the MO will inform the complainant.
- 3 If the Monitoring Officer believes there may be a potential breach of the Code they may take the following actions in consultation with the Independent Person without determining if an actual breach has taken place:-
 - Take such steps as they think appropriate to prevent a future breach of the Code including training, guidance, introducing or amending

policies/protocols.

- Ask the Whips to address the issue raised within their political parties or with an individual Member.
- Mediate between the parties involved to resolve the issues.
- Obtain further information from the complainant or other relevant individual/body.

4 The Monitoring Officer, after taking the above steps as appropriate, will decide, in consultation with the Independent Person, if the matter should be investigated.

5 The Monitoring Officer will take into account when deciding if the matter should be investigated :-

- The seriousness of the allegation.
- The effectiveness of the remedies available.
- If a significant amount of time has elapsed since the events which are the subject of the complaint.
- The benefits of an independent consideration of the allegation.
- If the allegation relates to a cultural or recurring issue relating to standards within the Council.
- If the matter should be dealt with by some other method, e.g. police investigation.
- If complaints have been made about the Member relating to similar issues in the past.
- The impact on the complainant or reputation to the Council caused by the conduct.
- If the complaint appears to be trivial or vexatious or is part of a series of complaints from the complainant.
- The conduct occurred during political debate or could be regarded as a political expression of views or opinion

6 It is expected that only a minority of potential breaches will be referred to the Standard Committee.

Procedure for Investigations

7. If the matter is to be investigated, the complainant and subject of the complaint will be informed by the Monitoring Officer. The Elected Member will be given full details of the allegation and have 14 days to submit a response, witness statements and any relevant information. The Member will be asked to express a preference for a written or oral hearing should the matter be referred to the Standards Committee.
8. The Monitoring Officer will supply the complainant with copies of any documents produced in accordance with paragraph 3 or 7 above. The complainant may provide a written response and further evidence if they choose to do so. They must respond within 14 days of receipt of the information. The Monitoring Officer or Independent Person may advise and assist either party with the written information to be supplied.
9. The Independent Person and the Monitoring Officer will consider the complaint and responses to decide if any further information should be obtained by the Monitoring Officer or if an internal or independent investigation is required on all or any aspect of the complaint.
10. The Monitoring Officer in consultation with the Independent Person shall decide when the investigation process set out in 7 to 9 above is complete and if evidence of a breach is found. If no evidence is found no further action will be taken and the Monitoring Officer will inform the complainant.
11. Where the investigation finds evidence of failure to comply with the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, may attempt a local resolution, avoiding the necessity of a hearing by identifying other appropriate remedial action. It would only be appropriate for the MO to agree a local resolution after consultation with the Independent Person and subject to a summary report for information being submitted to the Standards Committee.

Standards Committee

12. If evidence of a breach is found on investigation and the matter cannot be resolved, the MO will refer the matter to the Standards Committee. The Standards Committee will meet to consider the allegation and make clear findings as to the facts on the matter and whether, in its opinion, a breach of the Code of Conduct has occurred. This decision will be made upon the papers submitted if the Member agrees. If the member does not agree to a paper consideration he/she will be asked to attend the Standards Committee to give oral representations and present their evidence. The Member may, with the consent of the Committee obtained prior to the meeting, present witnesses.

The Standards Committee will give reasons for its decision. The Committee will meet in public unless the Chair decides all or some of the meeting should be held in

private subject to the Access to Information requirements. The MO will attend the meeting and can provide advice to the Committee.

13. The Committee shall decide if a breach of the Code has taken place and what sanction, if any, it should recommend.

14. The MO will inform the complainant and the Member of the outcome in writing within 7 days.

15. The findings and decision of the Standards Committee will be publicly available on the Council's website and copies will be supplied to the MO, Chief Executive and Member concerned, Leaders of the political party concerned, the Whips and the complainant.

Remedies

16. If the Standards Committee finds a breach of the Code has occurred they may make one of the following recommendations and may specify to whom they wish them to be directed:

- Recommending to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council or Shadow Portfolio responsibilities
- Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Instructing the Monitoring Officer to arrange training for the member;
- That policies/procedures are amended;
- That a briefing/information note be issued;
- That an apology be given;
- That the member is censured in writing and a copy of the letter is published on the Council's website.

Appeals

17. It is not intended that an Appeal procedure would be used as a matter of course. If, however, the Standards Committee Chair and Monitoring Officer agree that the nature of the decision may have a significant impact on the member against whom findings are made or has important implications for the Council as a whole, they may allow an appeal to the Standards Committee of another authority with whom a

reciprocal agreement exists. If no suitable Committee is available the appeal will be dealt with by the Chief Executive.

Reports

18. A bi-annual report will be presented to Members of the Standards Committee on the complaints received and how they were dealt with. An annual report will be prepared for Council in relation to all Standards Complaints.

5.1 — Receipt of Allegations

~~5.1.1 The Monitoring Officer shall set up arrangements within the Authority to secure that any allegation made in writing that a member of the Authority has or may have failed to comply with the Authority's Code of Conduct is referred to him/her immediately upon receipt by the Authority.~~

~~5.1.2 The Monitoring Officer shall maintain a register of such allegations to ensure that the Authority can comply with its obligations under the relevant legislation.~~

~~5.1.3 Complaints shall only be entertained where they are signed by the complainant, but the Monitoring Officer is authorised to maintain the confidentiality of the identity of the complainant where and for so long as in his /her opinion that would be in the public interest.~~

5.2 — Notification of Receipt of Allegations

- ~~5.2.1 All relevant allegations must be assessed by the Assessment Sub-Committee, so the Monitoring Officer has no authority to deal with an allegation which appears to be an allegation of failure by a relevant member to observe the Code of Conduct other than by reporting it to the Assessment Sub-Committee. The Monitoring Officer shall therefore determine whether the allegation appears to be a substantive allegation of Member misconduct. Where it appears not to be, he or she shall ensure that the matter is dealt with under a more appropriate procedure, for example where it is really a request for service from the Authority, a statement of policy disagreement, a legal claim against the Authority or a complaint against an officer of the Authority.~~
- ~~5.2.2 Following receipt of the allegation, and where the allegation does appear to be a complaint of misconduct against a relevant member, the Monitoring Officer will promptly, and in any case in advance of the relevant meeting:~~
- ~~(i) Acknowledge to the complainant receipt of the allegation and confirm that the allegation will be assessed by the Assessment Sub-Committee at its next convenient meeting;~~
 - ~~(ii) Confirm that the complaint and a summary of the allegations will be disclosed to the subject Member, unless the complainant withholds permission to do so, in writing, within 5 days of receipt of the acknowledgement;~~
 - ~~(iii) Subject to (ii) notify the member against whom the allegation is made of receipt of the complaint, together with a written summary of the allegation, and state that the allegation will be assessed at the next convenient meeting of the Assessment Sub-Committee. However, where the Monitoring Officer is of the opinion that such notification would be contrary to the public interest or would prejudice any person's ability to investigate the allegation, he or she shall consult the Chair of the Assessment Sub-Committee, or in his absence the Chair of the Standards Committee, and may then decide that no such advance notification shall be given;~~
 - ~~(iv) Collect such information as is readily available and would assist the Assessment Sub-Committee in its function of assessing the allegation;~~
 - ~~(v) Seek local resolution of the matter where practicable, in accordance with Paragraph 5.3 below;~~
 - ~~(vi) Place a report, including a copy of the allegation, such readily available information and his or her recommendation as to whether~~

~~the allegation discloses an apparent failure to observe the Code of Conduct, on the agenda for the next convenient meeting of the Assessment Sub-Committee.~~

5.3 — Local Resolution

~~5.3.1 Local resolution is not an alternative to reporting the allegation to the Assessment Sub-Committee, but can avoid the necessity of a formal local investigation.~~

~~5.3.2 Where the Monitoring Officer is of the opinion that there is the potential for local resolution, he or she may depending on the circumstances, approach the member against whom the allegation has been made and ask whether he or she is prepared to acknowledge that their conduct was inappropriate, and whether he or she would be prepared to offer an apology or undertake other appropriate remedial action. With the consent of the member concerned, the Monitoring Officer may then approach the complainant and ask whether the complainant is satisfied by such apology or other remedial action. The Monitoring Officer should then report to the Assessment Sub-Committee as required, and at the same time report the response of the member concerned and of the complainant. The idea is that, where the member has acknowledged that his or her conduct was inappropriate, and particularly where the complainant is satisfied with the proffered apology or remedial action, the Assessment Sub-Committee might take that into account when considering whether the matter merits investigation.~~

5.4 — Review of Decisions not to Investigate

~~5.4.1 Where the Assessment Sub-Committee has decided that no action be taken on a particular matter, the Monitoring Officer shall promptly advise the complainant of the decision, and the complainant may then within 30 days of receipt of such notification request that the Review Sub-Committee review that decision.~~

~~5.4.2 Whilst the review shall normally be a review of the reasonableness of the original decision rather than a reconsideration, the Monitoring Officer shall report to the Review Sub-Committee the information which was provided to the Assessment Sub-Committee in respect of the matter, the summary of the Assessment Sub-Committee and any additional relevant information which has become available prior to the meeting of the Review Sub-Committee.~~

5.5 — Local Investigation

~~5.5.1 It is recognised that the Monitoring Officer or Deputy will not personally conduct a formal local investigation.~~

~~5.5.2 It will be for the Monitoring Officer or Deputy, where appropriate, after consultation with the Chair of the Standards Committee or the Chair of the~~

~~Assessment Sub-Committee, to determine who to instruct to conduct a formal local investigation and this may include another senior officer of the Authority, a senior officer of another authority or an appropriately experienced consultant.~~

SCHEDULE

1. Report on contraventions or likely contraventions of any enactment or rule of law	Section 5 Local Government and Housing Act 1989
2. Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5 Local Government and Housing Act 1989
3. Appointment of Deputy	Section 5 Local Government and Housing Act 1989
4. Report on resources	Section 5 Local Government and Housing Act 1989
5. Maintain register of Members Interests and gifts and hospitality	Local Government Act 2000 section 81; and Members Code of Conduct Order 2007. <u>Localism Act 2011</u>
6. Refer relevant matters to Standards Committee for initial assessment, review and hearing.	Standards Committee (England) Regulations 2008
7. Investigate and report on any misconduct in compliance with Regulations	Local Government Act Part III section 66
8. Advice to members on interpretation of Code	Members Code of Conduct Order 2007
9. Support to Standards Board	Local Government Act Part III
10. Perform Ethical framework functions in relation to Parish Councils	Local Government Act Part III section 83
11.6. Receive reports of all whistleblowing allegations of misconduct	Whistleblowing Code of Conduct <u>Policy and Procedure (in the Officers' Code of Conduct)</u>
12.7 Proper Officer Access to information	Constitution 12.03 (h)
13.8 Advise on vires, maladministration, impropriety, probity	Constitution 12.03 (j)
14.9 Advise whether executive decisions are within policy framework	Constitution 12.03 (i)

3.3 NON-EXECUTIVE FUNCTIONS**3.3.1 FUNCTIONS RESERVED TO FULL COUNCIL**

The functions to be exercised only by the Full Council, whether as a matter of law, or of local determination are those set out in Article 4.02 (Functions of the Full Council).

3.3.2 COUNCIL FUNCTIONS WHICH MAY BE DELEGATED TO COMMITTEES OR OFFICERS

These are local authority functions which by law cannot be the responsibility of the Executive.

The numbering in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) is used in the table below to ease reference. Subject to the urgency provisions in paragraph 3.5.3, where a function referred to in the table is exercisable by both a Committee or Sub-Committee and an Officer, the Officer may only exercise the function to the extent that it is not covered within the terms of reference of the Committee or Sub-committee.

A. Functions relating to town and country planning and development control	
1-4 Removed by the Local Authorities (Functions and Responsibilities) (Amendment) (no 2) (England) 2005	
5. Power to determine application for planning permission.	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990 (c. 8).
6. Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.
7. Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990.
8. Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990.
9. Duties relating to the making of determinations of planning applications.	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made thereunder.
10. Power to determine application for planning permission made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492).
11. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418).
12. Power to enter into agreement regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.

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13. Power to issue a certificate of existing or proposed lawful use or development.	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990.
14. Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990.
15. Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992 (S.I. 1992/666).
16. Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990.
17. Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.
18. Power to serve a planning contravention notice, breach of condition notice or stop notice.	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990.
18A. Power to issue a temporary stop notice.	Section 171E of the Town and Country Planning Act 1990
19. Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990.
20. Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990.
21. Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990.
22. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991 (c. 34), paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c. 25) and paragraph 6(5) of Schedule 14 to that Act.
23. Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.
24. Power to determine application for listed building consent, and related powers.	Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)
25. Power to determine applications for conservation area consent.	Section 16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9), as applied by section 74(3) of that Act.
26. Duties relating to applications for listed building consent and conservation area consent.	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9) and [regulations 3 to 6 and 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (S.I. 1990/1519) and paragraphs 8, 15 and 26 of Department of the Environment, Transport and the Regions Circular 01/01
27. Power to serve a building preservation notice, and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)
28. Power to issue enforcement notice in relation to demolition of listed building in conservation area.	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)
29. Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)
30. Power to apply for an injunction in	Section 44A of the Planning (Listed Buildings

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relation to a listed building.	and Conservation Areas) Act 1990 (c.9)
30A. Power to authorise stopping up or diversion of highway.	Section 247 of the Town and Country Planning Act 1990 (c.8)
31. Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)
B. Licensing and registration functions (in so far as not covered by any other paragraph of this table)	
1. Power to issue licences authorising the use of land as a caravan site ("site licences").	Section 3(3) of the Caravan Sites and Control of Development Act 1960 (c. 62).
2. Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936 (c.49).
3. Power to license hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847 (10 & 11 Vict. c. 89), as extended by section 171 of the Public Health Act 1875 (38 & 39 Vict. c. 55), and section 15 of the Transport Act 1985 (c. 67); and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57); (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
4. Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
5. Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
6. Power to register pool promoters.	Part 8 and 9 of the Section 12 Schedule 2 to the Betting, Gaming and Lotteries Act 1963 (c. 2) as saved for certain purposes by article 3(3)(c) of the Gambling Act Order. Gambling Act 2005
7. Power to grant track betting licences.	Section 153, 154 and 164 of Part 8 of the Gambling Act 2005 Schedule 3 to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(d) and (4) of the Gambling Act Order.
8. Power to license inter-track betting schemes.	Gambling Act 2005 Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(e) of the Gambling Act Order.
9. Power to grant permits in respect of premises with amusement machines.	Section 274 and Schedule 12, Section 283 and Schedule 13, Section 289 and Schedule 14 and Part 10 of the Gambling Act 2005 Schedule 9 to the Gaming Act 1968 (c. 65) - as saved for certain purposes by article 4(2)(l) and (m) of the Gambling Act Order.
10. Power to register societies wishing to promote lotteries.	Section 258, Schedule 11 Parts 1 to 7 of the Gambling Act 2005 Schedule 1 to the Lotteries and Amusements Act 1976 (c. 32) as saved for certain purposes by article 5(2)(a) and (3) of the Gambling Act Order.
11. Power to grant permits in respect of premises where amusements with prizes	Section 247 and Schedule 10 and Part 10 of the Gambling Act 2005 Schedule 3 to the

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are provided.	Lotteries and Amusements Act 1976 as saved for certain purposes by article 5(2)(d) and (5) of the Gambling Act Order.
12. Power to issue cinema and cinema club licences.	Section 1 of the Cinema Act 1985 (c. 13).
13. Power to issue theatre licences.	Sections 12 to 14 of the Theatres Act 1968 (c. 54).
14. Power to issue entertainments licences.	Section 12 of the Children and Young Persons Act 1933 (c. 12), section 52 of, and Schedule 12 to, the London Government Act 1963 (c. 33), section 79 of the Licensing Act 1964 (c. 26), sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 (c. 19) and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982 (c. 30); Licensing Act 2003
14A. Functions relating to licensing.	Sections 5 to 8 of the Licensing Act 2003 (c. 17).
14AA Duty to comply with requirement to provide information to Gambling Commission.	Section 29 of the 2005 Act
14AB Functions relating to exchange of information.	Section 30 of the 2005 Act.
14AC Functions relating to occasional use notices.	Section 39 of the 2005 Act.
14B Power to resolve not to issue a casino premises licence	Section 166 of the 2005 Act.
14C. Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises.	Section 304 of the 2005 Act.
14CA Power to make order disapplying section 279 or 282(1) of the 2005 Act in relation to specified premises.	Section 284 of the 2005 Act.
14D. Power to institute criminal proceedings	Section 346 of the 2005 Act.
14E. Power to exchange information	Section 350 of the 2005 Act.
14F. Functions relating to the determination of fees for premises licences.	The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 (S.I. 2007/479).
14G Functions relating to the registration and regulation of small society lotteries.	Part 5 of Schedule 11 to the 2005 Act.
15. Power to license sex shops and sex cinemas and sexual entertainment venues.-	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.
16. Power to license performances of hypnotism.	The Hypnotism Act 1952 (c. 46).
17. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.
18. Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907 (c. 53).
19. Power to register door staff. — only applies to London Boroughs	Paragraphs 1(2) and 9 of Schedule 12 to the London Government Act 1963 (c. 33) and Part V of the London Local Authorities Act 1995 (c. x).

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20. Power to license market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982, Part III of the London Local Authorities Act 1990 (c. vii) and section 6 of the London Local Authorities Act 1994 (c. xii).
21. Power to license night cafes and take-away food shops. — only applies to London Boroughs	Section 2 of the Late Night Refreshment Houses Act 1969 (c. 53), Part II of the London Local Authorities Act 1990 and section 5 of the London Local Authorities Act 1994.
22. Duty to keep list of persons entitled to sell non-medicinal poisons.	Sections 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972 (c. 66).
23. Power to license dealers in game and the killing and selling of game.	Regulatory Reform (Game) Order 2007/2007 Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831 (c. 32); sections 2 to 16 of the Game Licensing Act 1860 (c. 90), section 4 of the Customs and Inland Revenue Act 1883 (c. 10), sections 12(3) and 27 of the Local Government Act 1874 (c. 73), and section 213 of the Local Government Act 1972 (c. 70).
24. Power of register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990 (c. 16).
25. Power to license scrap yards.	Section 1 of the Scrap Metal Dealers Act 1964 (c. 69).
26. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975 (c. 52).
27. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).
28. Power to issue fire certificates.	Section 5 of the Fire Precautions Act 1971 (c.40).
29. Power to license premises for the breeding of dogs.	Section 1 of the Breeding of Dogs Act 1973 (c. 60) and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999 (c. 11).
30. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	Section 1 of the Pet Animals Act 1951 (c. 35); section 1 of the Animal Boarding Establishments Act 1963(c. 43); the Riding Establishments Acts 1964 and 1970 (1964 c. 70 and 1970 c. 70); section 1 of the Breeding of Dogs Act 1973 (c. 60), and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.
31. Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925 (c. 38).
32. Power to license zoos.	Section 1 of the Zoo Licensing Act 1981 (c. 37).
33. Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976 (c. 38).
34. Power to license knackers' yards.	Animal By-Products (Enforcement) (England) Regulations 2011/881 Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (S.I. 1999/646).
35. Power to license the employment of children.	Part II of the Children and Young Persons Act 1933 (c. 33), byelaws made under that Part, and Part II of the Children and Young Persons Act 1963 (c. 37).

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36. Power to approve premises for the solemnisation of marriages.	Section 46A of the Marriage Act 1949 (c. 76) and the Marriages (Approved Premises) Regulations 1995 (S.I. 1995/510)
37. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to— a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c. 67) Or b) an order under section 147 of the Inclosure Act 1845 (c. 8 & 9 Vict. c. 118)	Regulation 6 of the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843).
38. Power to register variation of rights of common.	Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471)
39. Power to license persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 (c. 31) and section 2 of the House to House Collections Act 1939 (c. 44)
40. Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c. 40).
41. Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991 (c. 22).
42. Power to license agencies for the supply of nurses.	Section 2 of the Nurses Agencies Act 1957 (c. 46).
43. Power to issue licences for the movement of pigs.	Pigs (Records, Identification and Movement) Order 2003/2632 Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (S.I. 1995/11).
44. Power to license the sale of pigs.	Pigs (Records, Identification and Movement) Order 2003/2632 Article 13 of the Pigs (Records, Identification and Movement) Order 1995.
45. Power to license collecting centres for the movement of pigs.	Pigs (Records, Identification and Movement) Order 2003/2632 Article 14 of the Pigs (Records, Identification and Movement) Order 1995.
46. Power to issue a licence to move cattle from a market.	Cattle Identification Regs 2007/529 Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871).
46A. Power to grant permission for provision, etc of services, amenities, recreation and refreshment facilities on highway, and related powers.	Local Government (Miscellaneous Provisions) Act 1982 – Schedule 5, Part 1 and Sections 115E, 115F and 115K of the Highways Act 1980.
47. Power to permit deposit of builder's skip on highway.	Section 139 of the Highways Act 1980 (c. 66).
47A. Duty to publish notice in respect of proposal to grant permission under section 115E of the Highways Act 1980.	Section 115G of the Highways Act 1980
48. Power to license planting, retention and maintenance of trees etc. in part of highway.	Section 142 of the Highways Act 1980.
49. Power to authorise erection of stiles	Section 147 of the Highways Act 1980.

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etc. on footpaths or bridleways.	
50. Power to license works in relation to buildings etc. which obstruct the highway.	Section 169 of the Highways Act 1980.
51. Power to consent to temporary deposits or excavations in streets.	Section 171 of the Highways Act 1980.
52. Power to dispense with obligation to erect hoarding or fence.	Section 172 of the Highways Act 1980.
53. Power to restrict the placing of rails, beams etc. over highways.	Section 178 of the Highways Act 1980.
54. Power to consent to construction of cellars etc. under street.	Section 179 of the Highways Act 1980.
55. Power to consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators.	Section 180 of the Highways Act 1980.
56. Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematograph Film Act 1922 (c. 35).
57. Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082) ⁶⁵
58. Power to approve premises for the production of minced meat or meat preparations.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205).
59. Power to approve dairy establishments.	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (S.I. 1995/1086).
60. Power to approve egg product establishments.	Regulation 5 of the Egg Products Regulations 1993 (S.I. 1993/1520).
61. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763).
62. Power to approve fish products premises.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994).
63. Power to approve dispatch or purification centres.	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
64. Power to register fishing vessels on board which shrimps or molluscs are cooked.	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
65. Power to approve factory vessels and fishery product establishments.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
66. Power to register auction and wholesale markets.	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
67. Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828).
68. Power to register food business premises.	Regulation 9 of the Food Premises (Registration) Regulations 1991.
69. Power to issue near beer licence. – only applies to London Boroughs	Sections 16 to 19 and 21 of the London Local Authorities Act 1995 (c.x.) and, to the extent that it does not have effect by virtue of regulation 2(3), section 25 of that Act.
70. Power to register premises or stalls for the sale of goods by way of competitive	Section 28 of the Greater London Council (General Powers) Act 1984 (c.xxvii).

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bidding. – only applies to London Boroughs	
71. Power to register motor salvage operators.	Part I of the Vehicles (Crime) Act 2001 (c.3).
72. Functions relating to the registration of common land and town or village greens.	Part 1 of the Commons Act 2006 (c.26) and the Commons Registration (England) Regulations 2008 (S.I. 2008/1961)
73. Functions relation to the registration of city based dealers in second hand goods	South Yorkshire Act 1980, Section 52
C. Functions relating to health and safety at work	
Functions under any of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.	Part I of the Health and Safety at Work etc. Act 1974 (c. 37)
D. Functions relating to elections	
1. Duty to appoint an electoral registration officer.	Section 8(2) of the Representation of the People Act 1983 (c. 2)
2. Power to assign officers in relation to requisitions of the registration officer.	Section 52(4) of the Representation of the People Act 1983.
3. Functions in relation to parishes and parish councils.	Part II of the Local Government and Rating Act 1997 (c. 29) and subordinate legislation under that Part.
4. Power to dissolve small parish councils.	Section 10 of the Local Government Act 1972.
5. Power to make orders for grouping parishes, dissolving groups and separating parishes from groups.	Section 11 of the Local Government Act 1972.
6. Duty to appoint returning officer for local government elections.	Section 35 of the Representation of the People Act 1983.
7. Duty to provide assistance at European Parliamentary elections.	Section 6(7) and (8) of the European Parliamentary Elections Act 2002 (c.24)
8. Duty to divide constituency into polling districts.	sections 18A to 18E of, and Schedule A1 to, the Representation of the People Act 1983.
9. Power to divide electoral divisions into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983.
10. Powers in respect of holding of elections.	Section 39(4) of the Representation of the People Act 1983.
11. Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983.
12. Power to fill vacancies in the event of insufficient nominations.	Section 21 of the Representation of the People Act 1985.
13. Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972.
14. Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972.
15. Power to make temporary appointments to parish councils.	Section 91 of the Local Government Act 1972.
16 Removed by the Local Authorities (Functions and Responsibilities) (Amendment) (no 2) (England) 2005	
17. Power to submit proposals to the	Section 10 of the Representation of the People

LICENSING COMMITTEE**Terms of Reference**

- (a) The Licensing Committee shall be the licensing committee for the purposes of Section 6, Licensing Act 2003.
- (b) Except where by law or this Part of the Constitution they are functions reserved to Full Council, or where by virtue of this Constitution responsibility lies elsewhere, to exercise the functions of the Council whether as licensing authority under the Licensing Act 2003 and Gambling Act 2005 or otherwise, with regard to licensing matters under all other relevant legislation (including bye-laws), conferring upon the Council powers and duties relating to such matters, as well as any incidental steps deemed necessary or desirable and, in particular:-
- (i) to exercise and enforce the Council's licensing functions including but not limited to those listed in Table 1 below;
 - (ii) to consider and determine any plan, strategy or other policy of the Council specific to the powers and duties within its terms of reference.
- (c) Where licensing matters (including policy and adoption of legislation) are to be determined by Full Council to consider the matters and make recommendations to Full Council.
- (d) Exercise the power under the Commons Registration Act 1965 and the Commons Act 2006 to register common land or town and village greens, except where the power is exercisable solely for the purpose of giving effect to (a) an exchange of lands affected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 or (b) an order under section 147 of the Inclosure Act 1845; and to exercise the power to register variation of rights of common, PROVIDED that authority to determine the validity of an application to register land as common land or a town or village green is hereby delegated to the Director of Legal Services.

Legislation	Extent	Summary of Provision
Animal Boarding Establishments Act 1963	All	Regulation and enforcement in relation to animal boarding establishments.
Breeding of Dogs Act 1973	All	Regulation and enforcement in relation to premises used for

		breeding dogs.
Breeding of Dogs Act 1991	All	Power to inspect unlicensed premises used for breeding dogs.
Criminal Justice and Police Act 2001	Chapter 2	Designating public places in relation to consumption of alcohol; closure notices and closure orders.
Dangerous Wild Animals Act 1976	All	Regulation of the keeping of certain kinds of dangerous wild animals
Fire Safety and Safety of Places of Sport Act 1987	Parts II and III	Provisions for the safety of stands at sports grounds
Gambling Act 2005	Parts 1-3,8-16 and 18 (save ss166 and 349 which are reserved to Full Council)	Provisions about gambling
House to House Collections Act 1939	All	Regulation and enforcement of charitable collections
Hypnotism Act 1952	All	Authorisation of hypnotism exhibitions, demonstrations or performances.
Licensing Act 2003	All	Regulation and enforcement in relation to sale of alcohol, regulated entertainment and late night refreshment
Local Government (Miscellaneous Provisions Act) 1976	Part II	Provisions for the licensing, regulation and enforcement of hackney carriages and private hire vehicles and the drivers and operators of hackney carriages and private hire vehicles
Local Government (Miscellaneous Provisions) Act 1982	Parts II and III	Control of Sex Establishments; Control of Street Trading
Local Government (Miscellaneous Provisions) 1982 and	LG (MP) Act Shedule 5, Part 1 and Highways Act Sections 115E,	Regulation and Enforcement of Pavement Café

the Highways Act 1980.	115F and 115K of the	Licences
Marriage Act 1949	s46A	Approval of premises for the solemnization of marriages
Pet Animals Act 1951	All	Regulation and enforcement of Pet Shops
Poisons Act 1972	s5, s6 and s9	Regulation and enforcement of the registration of persons to sell poisons
Police, Factories etc. (Miscellaneous Provisions) Act 1916	s5	Regulations covering street collections
Policing and Crime Act 2009	s27	Sexual Entertainment Venues Transitional Provisions.
Riding Establishments Act 1964	All	Regulation and enforcement in relation to riding establishments.
Riding Establishments Act 1970	All	Provisional licensing of riding establishments.
Safety at Sports Grounds Act 1975	All	Provisions for safety at sports stadia and other sports grounds
South Yorkshire Act 1980	s52	Registration of dealers in second hand goods
Scrap Metal Dealers Act 1964	All	Regulation and enforcement of scrap metal dealers
Town Police Clauses Act 1847	ss37 to 68	Provisions for the licensing, regulation and enforcement of hackney carriages
Transport Act 1985	s16	Limitation on Hackney Carriage numbers
Vehicles (Crime) Act 2001	Parts 1 and 4	Regulation and enforcement of motor salvage operators
Zoo Licensing Act 1981	All	Regulation and enforcement in relation to zoos
This list is non-exhaustive. All legislation is as may be amended from time to time and includes any schedules related to the provisions listed and any regulations, bye-laws or Statutory Instruments made under that legislation. To the extent that a matter included is reserved to Full Council the term of reference to the Licensing Committee is to consider and make		

recommendations to Full Council on that matter.

the Executive Director with departmental or budgetary responsibility for the relevant area.

3.5 DELEGATION TO OFFICERS OF NON-EXECUTIVE FUNCTIONS

3.5.1 Non-Executive Functions

Those non-executive functions which are not reserved for decision to the Council or to a Committee of the Council, or to another body, are deemed to be delegated to and exercisable by:-

- the Chief Executive;
- an Executive Director where the matter falls within his/her area of portfolio, service or budgetary responsibility or such other corporate area of responsibility to which s/he may be nominated from time to time; or
- such Council Officer(s) as may be designated to exercise the function by the Chief Executive or by the relevant Executive Director.

The Chief Executive and the Executive Directors will each be responsible for maintaining an up to date scheme of delegation for their portfolio or budget area which will identify the functions to be carried out, name the post which may make the delegated decision, and the limits, if any, to each delegation. Such limits will include obligations to take appropriate advice beforehand and to formally record decisions and any advice received, and may include, for example, obligations to consult, refer back to or report decisions taken to the Chief Executive, the Executive Director, or to the Member, or member body with oversight of the relevant area.

The Chief Executive and each Executive Director will provide the Monitoring Officer with their scheme of delegation in a format to be agreed with the Monitoring Officer, ~~Chief Executive, and the Chief Finance Officer~~. These schemes of delegation will be published on the Council's website and made available to each Member of the Council

3.5.2 Management Structure

The Management Structure and officers' responsibility for functions are set out in Part 7 of this Constitution.

3.5.3 Emergency and Urgency Powers

The Chief Executive, or in the Chief Executive's absence his/her designated deputy, has the power to act in cases of emergency or urgency to discharge all the non-executive functions delegated to other Officers in consultation,

COUNCIL PROCEDURE RULES

These Procedure Rules are Standing Orders made under S135 Local Government Act 1972.

1 Interpretation

- 1.1 The expression "the Lord Mayor" when used in these Procedure Rules as relates to procedure at meetings of the Council shall, where the context so allows, include the Deputy Lord Mayor or the Chair of the meeting for the time being.
- 1.2 The expression "Body" when used in these Procedure Rules shall mean the Council, Cabinet, Scrutiny Committees, Standards Committee, Regulatory Committees, Community Assemblies and other such meetings.

2 Council Procedure Rules to apply to all Bodies

These Council Procedure Rules shall, where appropriate, apply to the Council, Cabinet, Audit Committee, Scrutiny Committees, Standards Committee, Regulatory Committees, Community Assemblies and other such meetings.

3 Ruling on Council Procedure Rules

The ruling of the Lord Mayor or Chair of a Body, after consultation with the Chief Executive or his/her representative as to the construction or application of any of these Council Procedure Rules, or as to any proceedings of the Council or other Body, shall not be challenged at any meeting of the Council or other Body.

4 Suspension and Amendment of Council Procedure Rules

- 4.1 All of these Council Procedure Rules, except Rules 6.1 and 18.5 may be suspended by motion on notice or without notice if a minimum of 42 Members are present, of which not less than 22 Members vote in favour. Suspension can only be for the duration of the meeting.
- 4.2 Except in the case of a recommendation from the Cabinet, any motion put to the Council to permanently add to, vary or revoke these Council Procedure Rules shall, when moved and seconded, be deferred without discussion to the next ordinary meeting of the Council.

5 Meetings of the Council and Other Bodies

5.1 The annual meeting of the Council shall be held in the Town Hall at 11.30 a.m. on the third Wednesday in May.

5.2 The annual meeting will:

- (a) elect a person to preside if the Chair is not present;
- (b) elect the Lord Mayor (Chair) of Council;
- (c) elect the Deputy Lord Mayor (Deputy Chair) of Council;
- (d) receive any apologies for absence from Members of the Council;
- (e) receive declaration from Members of interests in the matters to be considered at the meeting;
- (f) approve the minutes of the last meeting
- (g) if necessary, appoint a Leader of the Council;
- (h) receive any announcements from the Chair, Leader and/or Chief Executive;
- (i) be told by the Leader about the composition and Constitution of the Executive for the coming year, and the names of Councillors he/she has chosen to be Members of the Executive;
- (j) be told by the Leader about the scheme of delegation for the discharge of executive functions;
- (k) approve a programme of ordinary meetings of the Council for the year;
- (l) agree the formula for determining the order in which Notices of Motion will be set out in the Council Summons for ordinary meetings of the Council during the year;
- (m) appoint at least one Overview and Scrutiny Committee, a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are not reserved to Full Council nor are Executive functions (as set out in Part 3 of this Constitution);

- (n) decide the size and terms of reference for those Committees;
- (o) decide the allocation of seats and any substitutes to Political Groups in accordance with the political balance rules;
- (p) receive nominations of Councillors to serve on each Committee and outside body where appointments to those bodies is reserved to full Council;
- (q) appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive; and
- (r) consider any other business set out in the notice convening the meeting.

5.3 In the event that any of the tasks outlined in paragraph 5.2 above are unable to be completed at the annual meeting, they will be undertaken at the next, or subsequent, ordinary meeting.

5.4 Ordinary meetings of the Council shall be held in the Town Hall at 2.00 p.m. on the first Wednesday in months to be determined at the Annual Council Meeting or, in particular circumstances, at such other dates and venues as may be determined by the Lord Mayor or the City Council.

5.5 Ordinary meetings will terminate at no later than ~~6.00~~6.30 p.m. Any unfinished business will normally be voted on without debate at the end of that time. Any meeting starting other than at 2.00 p.m. shall finish no later than four hours and 30 minutes after the start. Special and Extraordinary meetings of the Council shall also be subject to this rule.

5.6 In exceptional circumstances, with the consent of the majority of Members present and voting, the Council meeting may be adjourned in accordance with the provisions of Council Procedure Rules 11a(iv) and 17.13d and where an adjournment is agreed in the above circumstances, the remaining business of the day shall be considered at a date and time fixed by the Lord Mayor, or if he/she does not fix a date and time, at the next ordinary meeting of the Council.

- 5.7 Ordinary meetings will:
- (a) elect a person to preside if the Chair and Deputy Chair are not present;
 - (b) consider the extent to which the public and press may be excluded from the meeting;
 - (c) receive any apologies for absence from Members of the Council;
 - (d) receive declarations by Members of interest in the matters to be considered at the meeting;
 - (e) approve as a correct record the minutes of the last meeting;
 - (f) receive any communications or announcements from the Lord Mayor, the Leader or the Chief Executive;
 - (g) receive public questions and petitions;
 - (h) receive questions from Members of the Council in accordance with Council Procedure Rules 16 and 32;
 - (i) make any changes to the memberships of its Committees and appointments to outside bodies;
 - (j) receive any reports relating to matters reserved to the Council.
 - (k) receive any reports from the Executive, Overview and Scrutiny and the Council's Committees
 - (l) receive any presentations on matters of significant interest to the City; and
 - (m) consider motions of which notice has been submitted by Members of the Council in accordance with Council Procedure Rule 10.
- 5.8 Any five Members may give notice in writing to the Lord Mayor to call an Extraordinary Meeting of the Council to consider a specified item of business and this will take place at a date and time to be determined by the Lord Mayor. If the Lord Mayor refuses, or fails, to call an Extraordinary Meeting within seven days of receipt of such notice, then those five Members may call

the meeting. An extraordinary meeting may also be called by the Lord Mayor, the Monitoring Officer or by resolution of the full Council.

- 5.9 In special circumstances, the Lord Mayor may fix some other hour of commencement of any meeting of the Council.
- 5.10 Meetings of all other Bodies, with the exception of Regulatory Committees, shall be conducted according to the following procedures:-
- (a) Meetings shall last no longer than four hours, subject to the proviso that members may, by agreement, continue beyond such time limit by a period of not more than 30 minutes.
 - (b) Any unfinished business after the period of four hours (or four hours 30 minutes by agreement) shall be deferred to the next meeting of the body, or be voted on without debate.

6 Signing of Minutes

- 6.1 Where in relation to any meeting of the Council, the next meeting for the purposes 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 that Schedule relating to the signing of minutes.
- 6.2 In relation to the signing of the minutes of other Bodies, the next meeting of that Body shall be the next ordinary meeting and not a special meeting for the purposes of paragraph 44 of Schedule 12 to the Local Government Act 1972

7 Quorum

- 7.1 The quorum for a meeting of the Council shall be one quarter of the whole number of the Council (including vacancies). During any meeting at the instigation of the Lord Mayor, or at the request of a Member of the Council, the number of Members present shall be ordered to be counted and if 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 Lord Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

- 7.2 Provided that, where more than one third of the Members are disqualified at the same time and until the number of Members in office is increased to not less than two thirds of the whole, the quorum shall be determined by reference to the number of Members remaining qualified.
- 7.3 The quorum for meetings of the Cabinet, Scrutiny Committees, Licensing Committee and Planning and Highways Committees shall be three. The quorum for meetings of the Community Assemblies shall be half of its membership. Unless statutory regulations or legislation require otherwise, the quorum for meetings of other Bodies shall be two.

8 Notice of and Summons to Council Meetings

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with Council Procedure Rules 26 and 27 and existing legislation relating to access to information, as amended from time to time. At least five clear working days before a meeting, the Chief Executive will send a summons signed by him/her to every member of the Council giving 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.

9 Order of Council Business

- 9.1 The business of the Council shall be taken in the order in which it appears in the Council Summons.. However, the Council may, by a resolution passed on a motion duly moved and seconded, and without debate direct the order of precedence to be changed, in circumstances where the subject of a motion proves to generate public interest reflected by a significantly increased attendance by members of the public at a Council meeting and it is therefore deemed appropriate to take the motion in question as an earlier item of business.
- 9.2 The Council shall, where appropriate, consider any item referred from the Cabinet or Scrutiny Committee and shall take such action on the issues as may be deemed appropriate. ~~Debate on the issue shall be subject to time limits set out in Council Procedure Rule 17.5.~~

10 Notices of Motion to Council

10.1 Deadline for receipt of

Except for motions which can be moved without notice, as set out under Council Procedure Rule 11, written notice of every motion must be delivered to the Chief Executive not later than 12.00 noon on the Tuesday in the week prior to the next meeting of the Council or the day earlier where a Bank Holiday falls within the intervening period.

10.2 Motions set out in agenda

- (a) Unless the Member giving notice states, in writing, that he/she proposes to move it to a later meeting or withdraw it, motions for which notice has been given will be listed on the Council Summons in an order based on a pre-determined formula according to the relative size of the various Party Groups on the Council, with Motions being considered in an order of priority identified by the various recognised Groups. The formula shall be agreed at the start of each municipal year, to take account of any changes in size of the Groups etc. Provision shall also be made for the inclusion of any individual Motions that are not submitted through the recognised Groups.
- (b) Provision shall be made, within the formula, for each recognised Group on the Council to have ~~included in the first three Motions set out in the Council Summons, a Motion for debate~~ at least once during each full municipal year, with the frequency being determined according to the relative size of the Party Groups.

10.3 Scope

The Chief Executive may reject a Motion if it:-

- (a) is not a matter for which the Council has a responsibility or which affects the City, or its inhabitants.
- (b) is defamatory, frivolous or offensive.
- (c) is substantially the same as a Motion which has been put at a meeting of the Council in the past six months, unless Council Procedure Rule 10.4 has been complied with.
- (d) requires the disclosure of confidential or exempt information.

- (e) contains information which is factually inaccurate.

10.4 Motion similar to one previously rejected

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

10.5 Motions which commit the Authority to new or additional expenditure

- (a) Members moving a motion at Council the net effect of which, if accepted, is to commit the Authority to new or additional expenditure or cause loss of income shall before moving such motion clearly demonstrate that they have taken appropriate officer advice on all the following issues (1) whether or not the proposal set out in the motion is within current budgets, (2) what the implications of incurring the expenditure or loss of income would be, (3) if not within current budgets how any expenditure or loss of income is to be funded and (4) any change in priorities as a result of the proposal. The relevant information and consequences of the proposal must be clearly set out in the motion together with the fact that, in voting for the motion, Members will also be voting to amend the previously agreed expenditure or income and/or change in priorities for the services or areas affected.
- (b) Failure to comply with the above requirements in total means that the motion cannot be implemented until such time as the requirements are met.

11 Motions which may be moved without notice at Council Meetings

- (a) Subject, where appropriate, to the provisions of Council Procedure Rule 17.12, the following motions may be moved without notice:-
- (i) Appointment of Chair at a meeting from which the Lord Mayor and Deputy Lord Mayor are absent.
- (ii) Motions and Amendments where it is not reasonably possible to comply with Council Procedure Rules 10.1 and 12.1.

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- (iii) That the question be now put.
 - (iv) That the Council does now adjourn.
 - (v) Suspending all or any particular Council Procedure Rule and Financial Regulations, subject to the provisions of Council Procedure Rule 4.
 - (vi) That a member be no longer heard and/or be excluded from the meeting, subject to the provisions of Council Procedure Rule 19.
 - (vii) To vary the order of business, subject to the provisions of Council Procedure Rule 9.1.
 - (viii) To withdraw a motion or amendment, subject to the provisions of Council Procedure Rule 17.10.
 - (ix) Motions referred to in Council Procedure Rule 13.1 (a) and (b).
 - (x) To exclude the public and press pursuant to existing legislation relating to access to information, as amended from time to time., subject to the provisions of Council Procedure Rule 28.
 - (xi) In relation to the accuracy of the minutes.
 - (xii) To refer something to an appropriate body or individual.
 - (xiii) To appoint a Committee or member arising from an item on the Summons for the meeting.
 - (xiv) To proceed to the next business.
 - (xv) To give the consent of the Council where it is required by the Constitution.
 - ~~(xvi) To extend the maximum time limit of 40 minutes debate in total per Motion or item, subject to the provisions of Council Procedure Rule 17.6.~~
 - (b) After the mover has spoken to his/her motion, it shall be formally seconded. A maximum of one speaker from each political group officially recognised by the Council, other than that of the mover's Group, shall be allowed to speak to the motion. The mover shall have a right of reply.

12 Amendments to Motions

- 12.1 Subject to the provisions of Council Procedure Rules 11, 13 and 17.12, every amendment shall be submitted in writing to the Chief Executive (except for an amendment to any motion not detailed in the Council Summons), by not later than 12 noon on the day preceding the Council Meeting to which it is proposed to be submitted.
- 12.2 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; and
 - (iv) to insert or add words, as long as the effect of (ii) to (iv) is not to negate the motion such that it departs from the subject of the motion
- 12.3 The Chief Executive may reject an amendment if it:-
- (a) negates the motion such that it departs from the subject of the motion;
 - (b) is not a matter for which the Council has a responsibility or which affects the City or its inhabitants;
 - (c) is defamatory, frivolous or offensive;
 - (d) is substantially the same as a motion or amendment which has been put at a meeting of the Council in the past six months, unless Council Procedure Rule 10.4 has been complied with;
 - (e) requires the disclosure of confidential or exempt information; or
 - (f) contains information which is factually inaccurate.
- 12.4 Each amendment shall be numbered and a copy shall be placed on each Member's desk in the Council Chamber before the commencement of the Council Meeting.
- 12.5 The names of the mover and the seconder of any motion or amendment may be changed at any time prior to its being spoken upon.

13 Petitions

13.1 The Council has adopted a Petitions Scheme which can be found on the Council's website (www.sheffield.gov.uk/petitions) and is one way in which citizens can express their concerns and priorities to the Council. Petitions can be presented to a meeting of the Council, Cabinet, Overview and Scrutiny Committee or Community Assembly and fall into three main types:-

(a) Ordinary Petitions

Comprising at least five signatures from members of the public requesting some form of action. As a courtesy, Democratic Services should be notified of the intention to present a petition at the earliest opportunity and no later than 10.00 a.m. on the day of the meeting in respect of Full Council meetings. The Council, on a Motion which need not be in writing and which shall be put without discussion, may (i) refer the petition to the appropriate body or appropriate Cabinet Portfolio holder for consideration or (ii) decide that no further action be taken on the matter.

(b) Petitions requiring a Council Debate

A petition containing 5,000 signatures or more will trigger a public debate by Full Council. Seven working days' notice submitted to the Head of Democratic Services should be given to ensure Members have adequate preparation time.

The debate will be conducted and concluded as follows:-

- A 40 minute time limit for the item, with Members able to speak for up to three minutes each.
- The petition representative will be given 3 minutes to present the petition at the beginning of the debate at the meeting.
- The Lord Mayor will facilitate discussion of the petition by Members. Members' contributions will be summarised within the minutes of the meeting in order for the reasons for any subsequent referral to another body to be captured and communicated along with the petition, or for the reasons for the Council

subsequently deciding to take no action on the petition to be recorded.

- At the conclusion of the debate, the Lord Mayor will offer a “right of reply” to the representative of the petitioners so that he/she can respond to any matters raised in the debate. With the consent of the Lord Mayor, the representative may nominate another representative, who is entitled to speak under the Constitution, to provide that reply.
- The Lord Mayor will outline the options/courses of action available to the Council based on the nature of the petition and invite Members to propose simple motions in accordance with the relevant options/courses of action available to the Council. He/she may also put forward his/her own suggestion in the light of the debate, or if no other motion is proposed by Members, or in order to facilitate a consensual course of action in the event that multiple, similar motions are proposed. Any motion proposed will need to be seconded. Motions will be either to:-
 - note and take no action for the reasons put forward in the debate, or
 - take the action requested by the petitioners (if its within the Council’s remit to do so), or
 - refer the petition to either the Cabinet, a Scrutiny Committee, a Cabinet Member or an Executive Director for consideration having regard to the comments made by Members during the course of the debate.
- If only one motion has been proposed and seconded, the Lord Mayor will call for a vote on that motion, which will either be carried or lost.
- Should multiple motions have been proposed and seconded, the Lord Mayor will outline each motion and then call for a vote on each motion in turn until a motion is carried and an outcome is achieved.

- (c) Petitions requesting evidence from an Officer.

A petition containing 2,500 signatures may ask that a Senior Officer gives evidence at a public meeting of one of the Council's Overview and Scrutiny Committees about something for which the Officer is responsible as part of their job.

- 13.2 Members of the public shall have an opportunity to address the Council or relevant Committee in respect of their petition for which they are the lead petitioner for a maximum of three minutes within the allocated time under Council Procedure Rule 15.1 for Public Question Time and Petitions, with the exception of petitions requiring a public debate under Council Procedure Rule 13.1(b) in which a total of 40 minutes will be available for the debate, inclusive of the three minutes for the lead petitioner to present the petition.

14 Communications

Each meeting of the Council will include an item of business to receive any communications or announcements that the Lord Mayor, the Leader of the Council or the Chief Executive may wish to place before the Council.

15 Public Question Time and Petitions

15.1 At Council Meetings

- (a) A period of up to one hour shall be allocated at each ordinary meeting of the Council for the presentation of ordinary petitions and for written or oral questions submitted by members of the public on matters relating to the City of Sheffield or the services provided by the Council to be answered by the Leader of the Council or the appropriate Cabinet Member. Employees of the City Council will not be permitted to ask questions where they relate directly or indirectly to their employment and where there are other more appropriate channels of communication, unless previously authorised by the appropriate Executive Director in advance of the meeting and a copy of such authorisation has been passed to the Director of Modern Governance, before the meeting in question..
- (b) Where a submitted question cannot be answered because time does not allow, or where a Cabinet Member undertakes to provide a written answer, the written answer will be provided

within ten working days of the Council meeting and will be published on the Council website.

- (c) With the consent of the Council, by a simple majority vote, the Lord Mayor may extend the one hour period of public question time, having regard to the number and type of issues to be covered.
- (d) On the advice of the Chief Executive, the Lord Mayor may not accept questions which relate to:-
 - (i) matters not being within the responsibility of the Local Authority or which affects the City or its inhabitants;
 - (ii) judicial or quasi-judicial matters;
 - (iii) individual planning/licence/grant applications or appeals
 - (iv) named officers or Members of the Council;
 - (v) confidential matters of the type referred to in Schedule 12A to the Local Government Act, 1972; and
 - (vi) matters of an irrelevant, repetitious, defamatory, frivolous or offensive nature or a general misuse of the opportunity.

15.2 Meetings other than Council

- (a) Provision shall also be made at meetings of appropriate Bodies for Members of the public to present petitions, at the Chair's discretion, within a time limit of approximately three minutes, or to ask questions of Members and officers present. Employees of the City Council will not be permitted to ask questions where they relate directly or indirectly to their employment and where there are other more appropriate channels of communication, unless previously authorised by the appropriate Executive Director in advance of the meeting and a copy of such authorisation has been passed to the Director of Modern Governance before the meeting in question.
- (b) The ability of a member of the public to ask questions or present petitions in the allotted time at any meeting which allows this privilege shall be subject to the discretion of the Chair and, in normal circumstances, such discretion shall be exercised in favour of the question being asked or petition being presented. However, the Chair may decide that the individual is asking irrelevant, repetitious, defamatory, frivolous or offensive questions or generally misusing the opportunity, in which event he/she may decline to allow the individual to put questions to the meeting and such person will instead be invited to put the questions in writing. At the discretion of the Chair, a period longer than the stipulated three minutes may be allowed.

16 Members' Questions at Ordinary Meetings of the Council

- 16.1 Provision shall be made in the Council Summons for each ordinary meeting of the Council (except January), for Members of the Council to ask the Leader of the Council, the appropriate Cabinet member, the Chairs of the Scrutiny Committees or the Regulatory Committees any question on matters within the functions of that Body. The Chairs of Regulatory Committees can only be asked questions relating to policy and practice rather than individual cases.
- 16.2 Written notice of questions is required by not later than 12.00 noon on the Tuesday in the week prior to the next meeting of the Council or the day earlier where a Bank Holiday falls within the intervening period. The Member giving the reply shall have the option to reply by way of:-
- (a) an oral or written answer at the Council Meeting;
 - (b) reference to a previously published document; or
 - (c) a written reply provided, wherever possible, within 10 working days of the Council meeting and circulated to all Council Members.
- 16.3 Where an oral answer has not been commenced during question time, it shall be answered by written answer, wherever possible, within 10 working days of the Council meeting and circulated to all Council Members.
- 16.4 No discussion shall be permitted on any such question or answer but, with the permission of the Lord Mayor and at the appropriate time as set out in the Council Summons, one supplemental question on each question may be asked by the Member who had submitted the original question within the time allocated for Members' questions.
- 16.5 If, in the opinion of the Monitoring Officer, a Member asks questions that are of no discernible value, that Member may be asked to justify the cost of supplying such information.
- 16.6 Provision shall also be made in the Council Summons (i) for each ordinary meeting of the Council, for Members, with the permission of the Lord Mayor, to ask questions relating to the discharge of the functions of the South Yorkshire Joint Authorities, and (ii) for each meeting of the Council, for Members, with the permission of the Lord Mayor, to ask questions relating to urgent business of which notice in writing

has been given to the Chief Executive not later than 12.00 Noon on the day of the meeting.

- 16.7 A period of up to 30 minutes shall be allocated for Members' questions.

17 Rules of Debate at Council Meetings

17.1 Addressing the Lord Mayor

The rules of debate set out in Council Procedure Rule 17 shall apply to all meetings of the Council and its Committees, Sub-Committees and Area Committees.

When a Member speaks, he/she must stand and address the meeting through the Lord Mayor. If more than one Member stands, the Lord Mayor will ask one to speak and the others to sit down. Other Members must remain seated whilst a Member is speaking unless he/she wishes to make a point of order or a point of personal explanation. Whenever the Lord Mayor addresses the meeting, all other Members shall not attempt to address the meeting. When the Lord Mayor stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

17.2 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, subject to the other provisions of these Council Procedure Rules and particularly Council Procedure Rules 17.11 and 17.12.

17.3 Right to require motion in writing

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

17.4 Secunder's speech

When seconding a motion or amendment, a Member may reserve their speech until later in the debate, subject to the other provisions of these Council Procedure Rules and particularly Council Procedure Rules 17.11 and 17.12.

17.5 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. Subject to the provisions of Council Procedure Rules, 11, 17.6, 17.12 and 17.13, speeches on motions or amendments shall be subject to a time limit of 3 minutes each speaker.

17.6 Time limit for debate

All Motions for which notice has been given in the Council Summons and all reports or presentations to be considered at ordinary meetings of the Council, shall not be subject to a maximum time limit. ~~be subject to a maximum time limit of 40 minutes debate in total per Motion or item, including any amendments relating thereto. Upon expiry of the time limit, any and all outstanding business relating to that Motion or item of business including any amendments relating thereto, will be moved and seconded, and voted upon without further debate. However, the Council may, by a resolution passed on a motion formally moved and seconded without debate, extend the debate on such Motion or item of business for a specified period or by a specified number of speakers.~~

17.7 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.

17.8 Amendments to motions

- (a) 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.

- (b) If an amendment is not carried, other amendments to the original motion may be moved.
- (c) 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. If there are no further amendments, the substantive motion is put to the vote.
- (d) If an amendment submitted under Council Procedure Rule 11(a)(ii) is carried, no further amendment relating to the same matter shall be moved unless the further amendment has been handed in writing to the Lord Mayor prior to the vote being taken on the previous amendment.

17.9 Alteration of motion or amendment

- (a) A member may alter a motion or amendment 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 or amendment 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.

17.10 Withdrawal of motion or amendment

A member may withdraw a motion or amendment 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.

17.11 Right to 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) The mover of the amendment has no right of reply to the debate on his or her amendment.
- (c) Subject to the provisions of Council Procedure Rule 17.13, a Member who has formally seconded a motion or

amendment and who has been permitted to reserve his/her speech until a later period in the debate will not be deemed a speaker for the purposes of counting five persons, but will lose his/her right to speak if he/she has not spoken prior to the passing of a motion that the question be now put.

17.12 Motions which may be moved during debate

- (a) When a motion or amendment is under debate, no other motion may be moved except the following procedural motions:-
- (i) to withdraw a motion or amendment;
 - (ii) to alter a motion or amendment;
 - (iii) to proceed to the next business;
 - (iv) that the question be now put;
 - (v) to adjourn a debate or the meeting;
 - ~~(vi) to extend the maximum time limit of 40 minutes debate in total per motion or item;~~
 - (vii) to suspend a particular Council Procedure Rule, subject to the provisions of Council Procedure Rule 4;
 - (viii) to exclude the public and press in accordance with existing legislation relating to access to information, as amended from time to time;
 - ~~(ixviii)~~ to not hear further a Member or to exclude him/her from the meeting, subject to the provisions of Council Procedure Rule 19.
- (b) After the mover has spoken to his/her motion, it shall be formally seconded. A maximum of one speaker from each political group officially recognised by the Council, other than that of the mover's Group, shall be allowed to speak to the motion. The mover shall have a right of reply.

17.13 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, if not less than five persons have spoken on the motion under debate, and at least one member of each of the political parties recognised by the Council as constituting an identifiable and separate Party Group, having previously indicated to him/her a wish to contribute to the debate, has been given the opportunity so to do, the Lord Mayor 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, if not less than five persons have spoken on the motion under debate, and at least one member of each of the political parties recognised by the Council as constituting an identifiable and separate Party Group, having previously indicated to him/her a wish to contribute to the debate, has been given the opportunity so to do, the Lord Mayor 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 Lord Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply. If a majority of Members vote in favour of the motion, the remaining business of the day shall stand adjourned to a time fixed by the Lord Mayor at the time the meeting is adjourned, or, if he/she does not fix a time, to the next ordinary meeting of the Council.

17.14 Point of Order

- (a) A Member may raise a point of order at any time. The Lord Mayor will hear the Member immediately. A point of order may only relate to an alleged breach of these Council rules of procedure or the law. The Member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Lord Mayor on the matter will be final.
- (b) A Member may call upon the Lord Mayor to advise the meeting as to whether an issue has arisen in the motions presented to the meeting, or in the resulting debate, of factual inaccuracy or significant ambiguity; or defamation

or discrimination. The Lord Mayor, advised by the Chief Executive, will advise the meeting as to what action should be taken if such an issue has arisen.

17.15 Personal Explanation

A Member may, at any time, request to address the meeting to provide a personal explanation where he/she has made a mis-statement that is being quoted by a later speaker, or where another Member has misquoted or misunderstood what the Member had said, during the present debate. The Lord Mayor will decide whether or not to permit the request, and the Lord Mayor's ruling shall not be challenged. The Member shall confine his/her personal explanation to correcting the misunderstanding.

18 Voting at Meetings of the Council and Other Bodies

18.1 Majority

Unless otherwise indicated within the Constitution, 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.

18.2 Chair's casting vote

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

18.3 Show of Hands

Unless a recorded vote is demanded, the chair will take the vote by show of hands or electronically by using the available technology, or if there is no dissent, by the affirmation of the meeting.

18.4 Recorded Votes

If not less than ten Members present at a meeting of the Council or, in the case of meetings of other Bodies, one third of the Members present 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. The recording of votes at a meeting of the Council shall be carried out by roll-call

Formula for the order in which Notices of Motion shall be listed on the Council Summons (from September 2012)

In accordance with Council Procedure Rule 10.2, the formula for the order in which Notices of Motion shall be listed on the Council Summons from September 2012 shall be:-

September 2012

Lib Dem/Labour/Labour/Lib Dem/Labour/Labour/Green, repeated

October

Labour/Labour/Lib Dem/Labour/Labour/Lib Dem/Green, repeated

November

Labour/Labour/Lib Dem/Labour/Labour/Lib Dem/Green, repeated

December

Lib Dem/Labour/Labour/Lib Dem/Labour/Labour/Green, repeated

February 2013

Labour/Labour/Lib Dem/Labour/Labour/Lib Dem/Green, repeated

April

Labour/Labour/Lib Dem/Labour/Labour/Lib Dem/Green, repeated

June

Green/Labour/Labour/Lib Dem/Labour/Labour/Lib Dem, repeated

July

Labour/Labour/Lib Dem/Labour/Labour/Lib Dem/Green, repeated

(Note: This formula is based on the relative size of the Party Groups:-

Labour 71.4% of members = 62.5% of meetings/5 of the 8 meetings

Lib Dem 26.2% of members = 25% of meetings/2 of the 8 meetings

Green 2.4% of members = 12.5% of meetings/1 of the 8 meetings)

decision maker as the case may be. Where referred to a meeting of the Cabinet or Cabinet Committee, the Chair of the Scrutiny Committee (or nominee), a representative of the signatories to the call-in and its Scrutiny Officer shall be expected to attend the meeting in order to assist the debate on the issue.

For decisions that have been referred to the Cabinet, the Council, a Cabinet Committee or an individual decision maker the Committee's Scrutiny Officer shall inform the Committee at its next appropriate meeting of the decision subsequently taken in relation to the called-in item.

In respect of:-

- (i) delegated decisions taken by officers which are not Key Decisions; and:-
- (ii) delegated decisions taken by the Regulatory Committees;

Scrutiny Committees shall be able to scrutinise the process that led to such a decision but not the decision itself.

17. Call-in and Urgency

(1) Removal from Call-in Process ("fast track")

- (a) **A decision cannot be called in for scrutiny if a minimum of three officers, comprising an Executive Director and two Statutory Officers or, in the case of a report of the Chief Executive, that officer and one other Statutory Officer, in consultation with the appropriate Cabinet Portfolio Member or the Chair of the Cabinet, sign and certify that an item of business is urgent and ~~that its delay for scrutiny would significantly prejudice the delivery of Council services~~ that its delay for scrutiny would consequently significantly prejudice the interests of the Council or a third party**

- (b) The definition of an urgent item of business is considered to be something where a failure to deal with or implement it promptly would cause administrative, financial or other difficulties to the individual(s)/ organisations(s) concerned and/or the Council; so that it would clearly be in the interests of those individual(s)/ organisation(s) and/or the Council and consistent with the Council's fiduciary and legal obligations to deal with the matter expeditiously.

- (c) In these circumstances, the item will be “fast tracked” unless it is a key decision in which case it will be taken in accordance with Rule 16 of the Access to Information Procedure Rules but it will still be open to the Scrutiny Committee, not only to examine this decision in retrospect, but also to examine the reason for a certificate being issued.

Note to explain changes to the following constitutional documents

Part 5 – Code of Conduct for Council Members and officers in respect of Planning Matters

Part 5 – Revised guidance note on general procedures at Planning and Highways Committee meetings.

Part 5 - Revised guidance note to Chairs on disruption of Planning and Highways Committees by members of the public.

Code of Conduct

- Clauses 1.2 - 1.6 are amended to reflect the Localism Act 2011 changes and attempts to clarify the extent to which Councillors can get involved without prejudicing their ability to take a decision on a particular application.
- Clause 2 has been amended to reflect the changes to member's interests again as a result of the Localism Act 2011. There is a reminder of what constitutes a Disclosable Pecuniary Interest (DPI)
- Clause 6 is updated slightly to reflect current practice for Committee Site Inspections. It clarifies the purpose, to assess the facts on the ground and clarifies that discussions may take place with both the applicant and any objector relating to matters arising from that site visit rather than on the merits of the application
- Clause 10 has been updated to reflect the fact that pre-application advice is no longer offered as a free service, charges now apply

Guidance Notes on General Procedures at Planning and Highways Committee Meetings

- Introduction amended to reflect abolition of the Standards Board for England
- 1.0 Training amended to remove outdated references to particular Acts

- 2.0 Chair's Briefing Meetings amended to reflect improved current practice that 'will' not 'may' be held
- 2.1 Planning and Highways Committee Briefing Meetings - updated to explain this new role
- 3.0 The Public Nature of Committee Meetings updated to reflect changes to the Constitution
- Previous clause 5 on Lobbying and avoiding predetermination deleted and replaced by advice in other sections
- 6.0 The Submission of Defamatory and Offensive Information simplified and updated to make consistent with current practice
- 7.5 Improved section on Members not following Officer recommendations, emphasising giving different weight to considerations, not issues of a subjective nature
- 7.6 made clearer about protection from and risk of costs when making enforcement decisions
- 8.1 Maintaining Public Confidence in the Committees - comment suggests that update should emphasise the need for Members to ensure that there is evidence to support recommendations against advice
- 8.2 updates the number of Committees (no reference to possible future changes)
- 9.3 reflects changes to the code of conduct and members interests
- 11.4 updated to reflect improved current practice on officer presentations (and would cover the introduction of digital presentations)
- 12.2 amended to reflect changes to the Constitution
- 13.1 on Committee Visit decisions updated to reflect current approach
- 13.4 added consideration for Members to attend Committee visits to maintain public confidence in the need for a visit (as poor attendance has been an occasional problem)
- 14.4 updated to reflect current appeal practice
- 15 Declarations of Interest simplified and updated
- 16 Observers etc simplified and updated
- 17.4 added on Chair's role in explaining decisions

- 18.6 deleted references to old cases and simple reference added on current improved practice to review appeal cases

**Guidance note to Chair on Disruption of Planning and Highways
Committees by Members of the Public**

The changes were to update the document to take into consideration the amendments made to the constitutional provisions in recent years. The document has not been materially changed

**Gillian Duckworth, Assistant Director of Legal Services (Place)
Graham Withers, Business Manager, Planning Services
16 August 2012**

**CODE OF CONDUCT FOR COUNCIL MEMBERS
AND OFFICERS IN RELATION TO PLANNING MATTERS**

1. Purpose of Code

- 1.1 This Code of Conduct has been adopted by the Council to regulate the performance of its planning function.

The Code has the following objectives:

- i) To guide Members and officers in dealing with planning related matters.
 - ii) To inform potential developers and members of the public generally, of the standards and procedures adopted by the Council in the performance of its planning function.
- 1.2 This Code of Conduct relating to Planning Matters is intended to supplement the new overall Code of Conduct which the Council adopted in July 2012 in accordance with section 27 Localism Act 2011. The purpose of this code is to provide more detailed guidance on the standards to be applied in relation to planning related issues.
- 1.3 Although this code refers to Planning & Highways Committees (for brevity, “the Committee”), its provisions apply equally to any other body of the Council making decisions on planning matters.
- 1.4 Planning law requires local planning authorities to determine all planning applications in accordance with the approved development plan unless material considerations indicate otherwise. This responsibility must be performed without undue influence or personal interest.
- 1.5 Members should not decide what weight to give different material planning considerations until they have read the Head of Planning’s report, heard any representations and listened to the debate at Committee.
- 1.6 There is no reason why members cannot attend briefing sessions with applicants express views on individual applications or attend public meetings or campaign group meetings for or against individual applications; in many cases it can be helpful to applicants and officers to alert them to concerns early in the application process. However committee members should not say or do anything which may indicate how they intend to vote on a particular application
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Updated August 2012

2. **Declaring Interests**

- 2.1 Members (and officers) will have to decide whether or not they have a Disclosable Personal Interest (DPI) in anything being considered at a meeting.
- 2.2 The interests members must register are set out below they include the interests of the Member and his/her spouse/partner:-

Employment, office, trade, profession or vocation

Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship

Any payment or financial benefit in respect of any expenses incurred in carrying out duties as a member, or towards the election expenses.

This includes any payment or financial benefit from a trade union

This does not include hospitality payments e.g. going to a football match.

Contracts

Any contract which is made between the member (or a body in which the relevant person has a beneficial interest) and the Council under which goods or services are to be provided or an existing contract delivering goods and services.

Land

Any beneficial interest in land which is within the area of the Council.

Licences (property)

Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.

Tenancies held by Companies in which the member has a beneficial interest

Any tenancy where the landlord is the Council; and

Securities (shares, debentures etc)Any beneficial interest in securities of a body where —

(a) that body has a place of business or land in the area of Council and

(b) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body

There are more detailed rules if the shares held by a company are divided into more than one class.

Where a member has a DPI, it is a criminal offence to:

- fail to register that interest within 28 days of being elected;
- fail to declare an unregistered interest at a meeting; and
- participate in a relevant item of business

DPIs have a broader definition than the former prejudicial interest. It is a DPI even if there is no likelihood that it might prejudice the member's perception of the public interest. This means that a decision which has only a minimal impact on a member's property or employer can trigger a criminal offence if it is not registered

2.5 If you have a DPI you must declare what the interest is if you have not already done so and withdraw from the meeting by leaving the room

2.6 If in doubt it is advisable to seek the views of the Director of Legal Services.

3. **Lobbying**

3.1 Provided that members comply with the general guidance in 1.6 there is no restriction in principle on being lobbied by developers, applicants or local interest groups. Written representations received, whether for or against an application, should be forwarded to the Head of Planning so that they can be considered and included in any report to Committee or on the delegated decision file.

- 3.2 As explained in 1.6, briefing sessions or meetings with applicants can be very helpful but members must avoid giving the impression that they have already made up their mind, so it may be helpful if members make it clear that any views they express are provisional.

4. Reports by Officers to Committee Members

- 4.1 Members are required to arrive at a decision on granting or refusing permission by using planning criteria and by excluding non-planning considerations. In determining planning applications Members are required to have regard to the development plan for the area and to any other material considerations. To this end, the reports of officers to Members must be accurate and cover all relevant points. These reports:

- (a) Should contain a section on the relevance of the development plan, a description of the site and any related planning history and all other relevant material considerations will be outlined.
- (b) Should deal with the substance of any planning objections received and the views of people who have been consulted or notified
- (c) Should incorporate a recommendation for the consideration of Members; oral reporting (except to introduce a report or update it) should be extremely rare and carefully minuted when it does occur.
- (d) Should contain a technical planning appraisal which clearly justifies the stated recommendation.
- (e) If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify this must be clearly stated.

5. Public Speaking at Committee Meetings

- 5.1 Public speaking at Committee meetings allows interested parties, including the public and applicants, to have direct access to Councillors at the point in time just before a decision is to be made. This should enhance public confidence in the process.
- 5.2 It is important that the 'Chance to Speak' offered in Sheffield is operated in a clear and equitable manner. The following procedure applies:
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- (a) The 'Chance to Speak' applies to the public, community groups, applicants, Town and Parish Councillors, City Councillors, or any representatives of the above.
 - (b) Where a request is made, speaking is at the Chair's discretion but will always include at least one person, if present, from each principal point of view (support or opposition).
 - (c) If there are groups of people wishing to speak, wherever possible the Chair will seek a representative to put the whole case. Additional speakers should be strictly limited to any genuinely different viewpoints or additional considerations. Repetition of points already made is unnecessary and will cause delay. Whilst a dialogue will not be permitted the Chair can use his discretion to allow Members to put a question to the applicant or other parties if that will help in the decision-making process and provided that officers are given the opportunity to advise on material considerations
 - (d) Speaking is limited to a maximum of 5 minutes per speaker.
 - (e) It is intended that the 'Chance to Speak' in Sheffield is operated with the minimum of bureaucracy. For example speakers only have to register their wish to speak at the commencement of the meeting to the Clerk, who will advise the Chair of their names and the item they wish to speak on. There are significant advantages to a flexible approach, but it is critical that this is operated in an equitable manner to maintain the confidence of all parties.
 - (f) The Chair should consider the advantages of bringing forward on the agenda items where there are identified speakers, to allow interested parties to leave the meeting without undue delay should they wish after their item.
 - (g) The Chair should announce at the commencement of the meeting how s/he will manage the meeting to facilitate people being able to put their views to the Committee. The normal order of speaking on any item will be the officer giving their report and recommendation followed by any public speakers. Only Committee Members will be able to question officers and speakers for clarification. Committee will then start to debate the item and from this point members of the public have no further opportunity to speak or be involved (unless the Chair determines there are exceptional reasons to do so for clarification). Certainly the public cannot take part in the debate or decision.
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6. Committee Site Inspections

- 6.1 Site visits will cause delay and additional costs and should only be used where the expected benefit is substantial. A decision by the Committee to carry out a site inspection should normally only take place:
- (a) If the impact of the proposed development is particularly difficult to visualise from the plans and any supporting material; or
 - (b) There is considerable local concern about a proposal, allied to planning reasons for carrying out the visit (e.g. the physical relationship of the site to other sites in the neighbourhood).

Normally officers will identify such cases in advance to avoid delay.

- 6.2 Where an application is deferred by Committee for a visit, clear reasons should be given at the meeting for the deferral so that the applicant and any third parties involved are able to understand the need for, and the benefit of, a site visit. This is to avoid misunderstanding either about the purpose of the site visit or the matters which are being considered.
- 6.3 Where it is intended to inspect the site it is essential that extremely careful arrangements are made to ensure that all parties are treated fairly and equitably, and that the appropriate standards of propriety are seen to be upheld.
- 6.4 When Members go on Committee site inspections they should realise that the function of the inspection is to visualise the development and assess the facts on the ground, and the following rules apply:
- (a) The visit will be led by a planning officer.
 - (b) Whilst discussions can take place with the applicant or objectors, these should concentrate on dealing with issues arising from the assessment of the development as seen on the site visit rather than dealing with issues of principle arising from the development itself.

7. Individual Site Inspections by Members

- 7.1 Members are encouraged to look at an application site following the receipt of the agenda and prior to the date of the Committee meeting. This will enable them to acquaint themselves with the nature of the proposal and will help avoid delay and unnecessary site visits.
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However, Members must conduct such site inspections from a public vantage point and should not discuss the application with any applicant/agent or third party. They should not enter a site even if invited.

7.2 Members of the Committee should not enter any premises not normally open to the public which are either:

- (a) The subject of, or affected by, a planning application; or
- (b) known by the Member to be likely to become the subject of, or affected by, a planning application

for any purpose in connection with such an application, save in the course of a Committee site inspection.

8. **Training**

8.1 Members of the Planning and Highways Committees and the Council's Cabinet Member for Planning must receive training in the planning system either before serving on the Committee or as soon as possible after their appointment to the Committee and certainly within 4 months. Members will not be able to continue on the Committee without this. This is to ensure that correct procedures are followed and proper planning considerations are employed in decision making. The integrity of the planning system and the need for public confidence require this.

8.2 Refresher training, updates, or more detailed training on specific issues will also be provided every two years and should be taken up by all relevant members

9. **Complaints and Record Keeping**

9.1 Whatever procedures the Council operates, it is likely that complaints will be made. In order that any complaints can be fully investigated, record keeping should be complete and accurate. Omissions and inaccuracies could, in themselves, cause a complaint or undermine the Council's case. Every planning application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings or significant telephone conversations.

9.2 The same principles of good record keeping will be observed in relation to enforcement and development plan matters. Monitoring of record keeping will be undertaken on a continuous basis by managers in the Planning Department.

10. Officer's Function

- 10.1 An officer's function is to advise Members on all matters of planning policy and procedure in their determination of planning and related applications by:
- (a) Providing impartial and professional advice.
 - (b) Making sure that all the necessary information is available for a decision to be made.
 - (c) Providing a clear and sufficient analysis of the issues including development plan policies and all other material considerations.
 - (d) Giving a clear recommendation.
 - (e) Carrying out the decisions of the Committee.

In Addition

- 10.2
- (a) Impartial advice will be given to prospective applicants prior to submitting an application. Advice will reflect approved Council planning policy. It will then be made clear that such advice will be without prejudice to any subsequent recommendation or formal decision by the Committee or a decision made under delegated powers.
 - (b) All application sites will be visited.
 - (c) Officers will endeavour to deal with applications and make final recommendations for the grant or refusal of permission in a timely manner without undue delay, whilst ensuring that sufficient time is allowed for consultation to take place where required and as set out in the Statement of Community Involvement
 - (d) All applications will be considered by at least two officers, i.e. the case officer plus the officer responsible for the final decision and/or recommendation.
 - (e) Members of the public, applicants, etc. will not be advised of the officer's final recommendation to Committee until agendas have been sent to Members, although officers can use their judgment where the indication of a likely recommendation would be of
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particular assistance to an applicant or objector and is unlikely to cause difficulties for any other interested parties

- (f) In all dealings with applicants, agents, and the public officers should maintain a courteous and professional relationship adhering to the Council's policies and officer codes ensuring that all parties are treated fairly and respecting people's rights.
- (g) When an application is submitted by an officer involved in the planning process the officer shall advise the Head of Planning. Such applications shall not be determined under delegated powers.
- (h) Where an officer has a relationship with any applicant, agent or organisation that could lead to a third party suggestion of bias, the officer will inform the Head of Planning in writing and take no part in processing or determining the application.
- (i) Officers should not, under any circumstances, accept gifts or hospitality beyond simple basic refreshment where necessary or unavoidable. If, however, a degree of hospitality is unavoidable, it should be ensured that this is of the minimum and its receipt is declared as soon as possible. All offers of gifts and hospitality, whether accepted or not must be entered in the hospitality record book, with the exception of simple basic refreshment.

11. Decisions Contrary to Officer Recommendation and/or Development Plan

- 11.1 The law requires that where the development plan is relevant, decisions should be taken in accordance with it unless material considerations indicate otherwise.
 - 11.2 In discussing and then determining a planning application Members should confine themselves to the planning merits of the case and the reasons for making a final decision should be clear and convincing and supported by planning evidence. All decisions must be founded on planning reasons and there must be planning evidence to substantiate them.
 - 11.3 There is no reason in law why a Planning Committee may not make a decision contrary to the officer's recommendation, whether it is for approval or refusal. Nevertheless, the law does require that in the case of refusals of planning permission detailed reasons are given, and it is clearly important that where Members have made a decision contrary to an officer's recommendations the reasons for the decision should be
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made clear such that there can be no suspicion of the decision being made for non-planning reasons. In such a situation, therefore, whether the decision by Members is to approve or refuse permission, the planning reasons should be clearly minuted, together with a reference to the evidence to substantiate them.

12. Consequences of Failure to Comply with Code

12.1 The Code sets out the standards that the Council will operate in dealing with planning applications. Members and officers should realise that failure to comply with this Code may have legal consequences.

12.2 These include:

- (a) Investigation by the Ombudsman if complaints are received about the manner in which a planning application has been dealt with. In determining whether there has been maladministration the current test is that members must “at all times avoid any occasion for suspicion and any appearance of improper conduct” and must not allow “the impression to be given that (the Member) is or may be using his position to promote a private or personal interest”. Individuals involved may be named and the Council may be found guilty of maladministration and ordered to compensate the claimant.
- (b) Appeal to the Secretary of State. As well as granting planning permission he can award costs against the Council if it has acted unreasonably - that can include bias and also whether the decision has been taken for non-planning reasons.
- (c) Court action to quash a planning decision either if a real danger of bias is shown or it is demonstrated that a decision was taken for non-planning reasons. Costs will be awarded against the Council which will have to re-determine the application correctly.

Committees

**GUIDANCE NOTE ON GENERAL PROCEDURES
AT PLANNING AND HIGHWAYS COMMITTEE
MEETINGS**

Issue Date: August 2012

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Committees

Introduction

This Guidance is for Planning and Highways Committee Members attending Committees and is intended to supplement the Corporate Code Of Conduct For Members, (the Code of Conduct) and any Code Of Conduct for Council Members And Officers In Relation To Planning Matters issued from time to time by the City Council with regard to the operation of Committees and the determination of Planning matters

This Guidance is not binding upon Members but sets out examples of both best practice and inappropriate conduct to aid in the interpretation of the above Codes and it is in the best interests of the City Council, the Committees and individual Members to follow this guidance, as compliance or non-compliance with this Guidance may be a material consideration in any subsequent investigation of a complaint as to Member's conduct. This Guidance Note is on general procedures for Committees and specific guidance on particular matters such as Telecommunications will be issued from time to time by the legal contact officers for Members.

The aim of this Guidance is to reduce the number of situations where things said or done by Members attending the Committees are misconstrued resulting in damage to the Council's reputation and loss of confidence in the planning system unnecessary legal challenges, planning appeals and awards of costs against the City Council

This Guidance may be amended at any time to accommodate changes in the law, procedure and best practice and revised copies will be circulated to all Members prior to the next meeting of the relevant Committee.

1. Members' Training

Members are reminded that determining matters under the Town and Country Planning Act 1990 and related legislation at a Committee requires a degree of knowledge and familiarity of planning law and procedure on their part. Member training is offered as a prerequisite to all new Members to Committees and regular updates and training for existing Members is offered by Planning Officers as is required due to legislative or policy change.

No Member may be appointed to serve on a Planning and Highways Committee until they have received the necessary training. This is to ensure that correct procedures are followed and proper planning considerations are employed in decision making. The integrity of the planning system and the need for public confidence require this.

Committees

2 **Chair's Briefing Meetings**

Chair's Briefing Meetings will be held, subject to the discretion of the Chair of the relevant Committee in consultation with Officers, and will generally be advisable to deal with circumstances such as the late submission of relevant information and of procedural issues concerning the conduct of the Committee hearing which have arisen after publication of the Agenda. If the Agenda does not raise any such issues, the Chair of the Committee may therefore dispense with any Briefing Meeting.

2.1 Planning and Highways Committee Briefing Meetings

2.1.1 The role of any Briefing Meeting which is held is to basically, allow developers to present large-scale development proposals to the Committee early in the planning process, and wherever possible at the pre-application stage, so that the developers will benefit from early feedback on any concerns that the Committee Members may have about the proposal. This gives the developer the opportunity to amend their proposals if they wish and avoids the possibility that the Committee's eventual decision on the application might come as a surprise to the developer. Planning Committee Members are required to attend any Briefings to ensure that developers get any feedback necessary.

2.2 Such meetings are not to be used for discussion of the merits of any proposal.

2.3 Where a legal issue is raised during a Briefing Meeting concerning a point of law or procedure, such as to the exclusion of the press and public (see paragraph 4 below) specialist legal advice must be sought from the Legal Services contact Officer for that meeting of the Committee. No Members other than Committee Members should attend briefing meetings.

3. **The Public Nature of Committee Meetings**

3.1 All Committees are public meetings of a committee of the City Council and it is a legal requirement that the public and the press are admitted to all such meetings.

Committees

3.2 The issue of transparency of proceedings is especially important in planning matters where a controversial application determined by an officer under a delegated power or in a closed session may lead to unfounded allegations of bias which can only be removed by having the matter determined in public. A controversial application in this context may mean a matter which is relatively simple to determine in terms of planning policy, but which may encounter significant public opposition due to the nature and proximity of the anticipated use e.g. a major metropolitan landfill site 250 metres from a small town.

3.3 In addition Planning Authorities are expected to consider the views of local residents in determining planning applications, with the failure to do so resulting in a potential award of costs at a subsequent planning appeal. Excluding the press and public could therefore be used against the City Council to make a claim for such costs.

3.4 The Committee is a Regulatory Body for the purposes of the Council Procedure Rules in that it discharges on behalf of the City Council those planning and highways regulation duties imposed by statute. This means that the cap as to length of meeting under Clause 5.10 Part 4, Council Procedure Rules does not apply to meetings of the Committee so as to allow full access to the public to all items on the Agenda of the Committee without premature termination of the public right to make representations caused by overrunning.

4. **Obtaining Advice on the Exclusion of The Press And Public**

4.1 On those very rare occasions where the exclusion of the press and public from a meeting may be required, specialist legal advice should have been obtained from the Legal Services contact officer before this issue is raised at the start the meeting of the Committee to ensure that Members and officers are familiar with the procedure and that it is correct to apply the procedure in that case.

4.2 In any circumstance where this issue has been raised for the first time after the start of the Committee, an adjournment of the Committee should be obtained to allow for specialist legal advice to be sought from Legal Services contact officer and given to the Members. Legal Services will ensure that where possible a contact officer is available for every Area Committee meeting. Officers will be notified in advance prior to the start of the Committee meeting the identity of the contact officer. Other matters on the agenda can be dealt with by Members whilst this advice is being sought to avoid undue delay.

Committees

5 The Submission Of Late and/or Confidential Information

- 5.1 Sometimes information is submitted to a Member by an objector or other third party which if it were received in time would normally be incorporated into a report on an agenda, or supplementary agenda, but for one reason or another has been received too late for this to occur. This information may be in the form of a written submission or a set of photographs or some other audio-visual aid, submitted just before the Committee Meeting directly to Members by persons supporting or objecting to a particular item on the Agenda and without notice to the Officers.
- 5.2 If such late information is submitted directly to a Member, the Member should pass on this information as soon as possible to the Planning Officer (or the Committee Secretary if the meeting is about to commence) to determine the best course of action given the amount of information received and the stage of the proceedings, as well as when this information first became available for submission. Depending upon these factors this may mean that the particular item in question has to be deferred until the next meeting of the Committee. This should only occur in the most extreme circumstances when determination on the date of the current Committee is impossible.
- 5.3 The deliberate late submission of information on a contentious item should not be used as an excuse for a deferral of that item to the next Committee. Members should therefore consider very carefully any circumstances where a party has had access to information relevant to the determination of an item but has withheld submitting this information until after the publication of the Agenda. In such circumstances it may be advisable to put such an item to the end of the Agenda and/or allow a short adjournment for officers to assess the late information and make a verbal report back to the Committee to the Committee. This would prevent undue delay arising in the determination of contentious issues which might lead to unnecessary planning appeals.
- 5.4 Sometimes a person will attempt to supply information to a Member which is claimed to be confidential in nature. Members should remember that they have a general duty of confidentiality under paragraph 3 of Part 1 of the Code of Conduct, and any action taken by the Member concerning the use of such confidential information should be in accordance with that duty.
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Committees

5.5 The principle of transparency in the planning process will generally find against any relevant information to the planning process being withheld from public scrutiny, restricting any right of confidentiality which may be sought by the person providing the information. In such circumstances the Member will normally be required to ask the person supplying the confidential information to decide between openly providing this information or of withdrawing this information from consideration whatsoever, so as to comply with both the duty under paragraph 3 of part 1 of the Code of Conduct, and the public principle of transparency.

5.6 Only where the City Council have been advised by the appropriate authorities that there is a legitimate and well founded threat to life or property from the publication of such information, would a right of confidentiality be ever considered to exist sufficient to overcome the principle of transparency. Mere commercial or personal interests on their own will never justify the breach of the principle of transparency.

6 **The Submission of Defamatory And Offensive Information**

6.1 Overtly defamatory or offensive remarks in a representation will not be accepted, even if legitimate planning issues are also raised. Its publication would not only bring the planning process into dispute, but may also render the Council liable in damages if malice can be proved. Correspondents will be informed that they will need to be resubmitted with such comments removed.

6.2 There may be instances where an unsubstantiated allegation may contain information material to the determination of a course of enforcement action or a planning application. A developer or land owner may regard the allegations as defamatory, but if they cannot be safely ignored and are material to the delegated or Committee decision to be made, their consideration will be justified.

7. **Unreasonable Conduct In Decision Making**

7.1 Members must be aware that making a decision based on grounds not related to planning issues will be considered to be unreasonable conduct by both Planning Inspectors and the High Court, resulting in this decision causing an award of costs against the City Council at a planning or enforcement appeal and/or the decision being quashed on judicial review with an award of costs against the City Council.

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- 7.2 All planning authorities have the discretion not to adopt the professional or technical advice of its Planning Officers, so that a decision against the advice of the Planning Officer will not automatically be considered to be unreasonable conduct. Regard should be had however to paragraphs 6.01 and 6.02 of Part 1 of the Code of Conduct, concerning decision making.
- 7.3 Members will sometimes face considerable public support for or against a particular item on the Agenda of the meeting. Whilst the views of local residents have to be taken into account when determining a planning application, if those views are not relevant to a planning issue it is unreasonable conduct for Members to take them into account when making a decision. Planning Officers seek to identify planning and non-planning issues raised as part of the consultation process and decisions as an aid to Members in this regard.
- 7.4 Decisions which ignore Local or National Policy Guidance will generally be deemed to be unreasonable and may result in costs being awarded to the appellant. Decisions which seek to evade National or Local Policy Guidance by adopting grounds for refusal which are in line with that policy but which are clearly not applicable to the circumstances of the particular application will also generally be deemed to be unreasonable and may result in costs. Again Planning Officers will refer to relevant National and Local policy guidance in their reports as an aid to Members in this regard.
- 7.5 Disagreement with the Planning Officers will normally be reasonable where it involves Members giving different weight to certain material planning considerations, based on careful consideration of the advice given by planning officers and of the supporting evidence. Planning decisions often involve weighing up conflicting considerations leading to a balanced judgement and reports to the Planning Committee will indicate where there is conflicting evidence or where a recommendation is finely balanced. Genuine differences of opinion between the Planning Officer and the Members on such issues can therefore exist without either bringing the planning system into disrepute or risking an award of costs.
- 7.6 Members should also be aware that when authorising enforcement proceedings that unreasonable decisions will put the Council at financial risk. A Stop Notice can create substantial costs for a developer or land owner and the Council is only protected from a substantial compensation claim if the development being stopped is unlawful. Any Enforcement Notice that requires the owner/occupier to do more than is required may not only result in an award of costs but
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may also result in a substantial claim for compensation should the accompanying Enforcement Notice be dismissed on appeal. The Planning Officers report will provide guidance for Members as to what is reasonable in the circumstances of the case on these points.

8. Maintaining Public Confidence in the Committees

- 8.1 Public confidence in the local operation of the planning system can be undermined by Members making unreasonable decisions (as set out in paragraph 7 above), as this may result in an increase in the number of appeals which the City Council lose. Success on these appeals may encourage disappointed applicants to make appeals for all applications in the hope that an Inspector will be more likely to grant planning permission than the Committee. In such a situation the City Council would have an increasing amount of officer time and resources spent on matters not suitable for appeal in the first place.
- 8.2 As currently constituted there are two Committees each served by their own Members. Members should not at any time in the course of a meeting of the Committee comment at all upon any matter which is, or has been, or will be on the Agenda of the other Committee, or about the conduct of any other Member or Planning Officer in relation to an Committee.
- 8.3 Members should also be careful not to give the impression or appearance of joining in or reacting to any such comments made by member of the public, press, or other persons, which may be misconstrued in a positive or negative fashion as being in favour or against the decision of another Committee.
- 8.4 Members should be especially careful when dealing with the media in respect of matters pertaining to the Committees, as adversely reported comments may also result in a loss in public confidence.
- 8.5 Members should note that conduct undermining confidence in the planning system may also constitute conduct bringing the authority into disrepute under paragraph 4 of Part 1 of the Code of Conduct.

9 Maintaining Public Confidence in the Role of Planning Officers

- 9.1 Members should at all times during meetings of Committees maintain a professional relationship with Planning Officers as set out in paragraph 2.05 of the Code of Conduct, sticking strictly to the Items contained within the Agenda and to the order of business as set out in the

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Agenda, rather than seek to raise matters with the Planning Officer not on the Agenda which may be misconstrued by those present.

- 9.2 Members should be careful as regards individual approaches to Planning Officers immediately before or after Committees. If the approach is in relation to an item on the Agenda, this may be misconstrued as an attempt by other persons present to influence the Planning Officer's professional and impartial advice and give rise to the appearance of a personal or prejudicial interest existing where no such interest exists. All matters pertaining to an item on the Agenda, including questions to the Planning Officer should be dealt with under the normal order of business in open meeting.
- 9.3 Members who would be barred from an item on the Agenda of a particular Committee due to having a Disclosable Pecuniary Interest should take special care when making any approach to the Planning Officer. If these approaches are immediately prior to or immediately after the Committee meeting, or that particular Agenda Item, then this may be misconstrued as an attempt to unduly influence the Committee through the Planning Officer, even if the approach is unrelated to anything on the Agenda.
- 9.4 Members can legitimately question the views of planning officers in a robust manner and openly express disagreement with their professional views. This can lead to a better understanding of the issues involved by all persons present, to the benefit of the planning system.
- 9.5 Members should however seek to avoid an unduly adversarial, repetitive or demeaning style of questioning, as this may reflect badly upon both the planning officer and the Member to the detriment of public confidence in the operation of the planning system. It is important that the professional standing and credibility of planning officers and the objectivity and efficacy of Committee Members is maintained in order that the public has confidence in the Council's planning system and is not unduly sceptical in its operation.
- 9.6 Members are further referred to paragraphs 2.04 through to 2.07 (inclusive) of the Code of Conduct which deals with the general obligations between Members and Officers.

10 Allegations Of Misconduct Of Officers

- 10.1 Members should be reminded that Planning Officers and other Officers will often work with the professionals acting on behalf of a developer to
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improve a poor or marginal scheme through a series of negotiations over often quite lengthy periods of time. This is part of the duties of Planning Officers and does not of itself imply that there has been improper collusion between the Planning Officer and the Developer, or that the Developer has exercised undue influence over the Planning process.

- 10.2 If a Member reasonably believes that improper collusion exists, or that undue influence is being exercised by a Developer in respect of a Planning Officer then this allegation should be notified to the Monitoring Officer before the meeting of the Committee. The Monitoring Officer will then inform the Director of Development Services and take action with regard to informing external investigators such as the South Yorkshire Police. The Member should thereafter provide whatever evidence or assistance may be required in the proper investigation of this matter by the City Council and/or the Police.
- 10.3 In the event of an allegation of improper collusion or undue influence being raised prior to the Committee meeting, the planning case file and Report will be reviewed by a Planning Officer senior to the Planning Officer preparing the report and previously unconnected to the application and any amendments to the Report will be presented by that senior Planning Officer.
- 10.4 In no circumstances should a Member seek to make an allegation of improper collusion or undue influence in the course of the Committee meeting itself. Aside from disrupting the proper conduct of the meeting and bringing the planning system into disrepute, this would prejudice the proper investigation of the allegation and personally leave the Member open to investigation for misconduct and an action for slander by the Developer and his agents, as well as the Planning Officer, should the allegation not be substantiated. A Member should not also therefore seek to defer a determination following an allegation of misconduct made by a member of the public.
- 10.5 Members need to be aware that conduct which falls outside these guidelines can be the subject of an application for judicial review on the ground that the Committee failed to deal with the particular application in a proper manner: it does not matter that the decision may have been correct in planning terms. It could also justify an application for costs in a planning appeal. Allegations of bias and/or improper collusion could potentially also be the subject of an action for slander; statements of that nature only attract qualified privilege which can be withdrawn if malice is proved.
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11 Commencement of Committee Meeting

- 11.1 Prior to the start of the meeting the Committee Secretary will have found out which members of the public wish to speak on which items on the agenda. The order of the agenda should therefore be revised in consultation with the Chair, to move those items up the agenda which have the most interest to those members of the public present so as to allow it to be dealt with first and to avoid disruption of the meeting.
- 11.2 The Committee Secretary will then announce the revised order of business and will explain, for the benefit of the public, the procedure for addressing the Committee. The Committee Secretary will also announce, after consultation with the Planning Officer, if any application is now not to be considered at the current meeting or has been completely withdrawn by the applicant.
- 11.3 In respect of applications which are now to be considered at the next Committee Meeting, any members of the public present who attended the meeting of the Committee to speak to that application should be offered the chance to either speak to that application with their comments incorporated into the revised report for that application, or to return to the next meeting of the Committee when the item would normally return for consideration. The preferred option would be for members of the public to attend to speak to that application at the next Committee meeting.
- 11.4 To speed up the proceedings, it will be assumed that Members will have read the reports on the agenda. Presentations will however be invited where they help to focus the Committee on the material considerations, where there are supplementary reports or to help the public understand why decisions are being made.
- 11.5 Members leaving the room during consideration of an item can not thereafter take part in the decision on that item upon their return, as they cannot be seen to have been in full possession of the information required to make that determination, and may have been influenced by events occurring outside the Committee during their absence.

12 Meeting Procedure and Decision Making

- 12.1 Members are reminded of the procedure for considering each application as follows:-
- Planning Officer introduction to report, where appropriate (see paragraph 11.4 above) .

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- Public representations – speaker(s) against recommendation first; speaker(s) for recommendation second.
 - Planning Officer response to public representations.
 - Member report back on any site visit held.
 - Member questions.
 - Planning Officer responses.
 - Member comments.
 - Voting on Planning Officer recommendations (with any amendments/ suggested changes/ additional conditions, etc.) as per Council Procedure Rules.
 - Give reasons for grant or refusal of application.
 - When granting a planning application, to indicate whether or not it should be required that any amendments to the application which need planning permission which are subsequently submitted by the applicant to be reported to the Committee for a decision.
- 12.2 Members may ask for the vote to be recorded, as normally no record is taken of the numbers for or against on a particular determination, only whether or not the matter was agreed or refused by the Committee. Clause 18.4 of part 4, Council Procedure Rules sets out in full the proper procedure for a formal recorded vote.
- 12.3 Separate guidance in the form of a Guidance Note To Chair On Disruption Of Planning And Highways Committee By Members Of The Public exists in relation to the disruption of Committee Meetings by members of the public, which includes the intimidation of Members.
- 13 Requests for Site Visits**
- 13.1 Wherever possible, planning officers and the Chair of the Committee will try and anticipate where a site visit might be required and organise it in advance of the Committee, to avoid unnecessary delay. A clear case should be presented by any Member suggesting an additional site visit and consideration given to any advice from officers present about

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available information that might negate the need for a visit. Paragraph 6 of the Code of Conduct contains specific rules regarding this issue.

- 13.2 When the Planning Officer suggests a decision on an application be deferred pending a site visit and a member of the public is present at that meeting and may be unable to attend the following meeting, then he/she should be allowed to speak and a note of such representations will be made and taken into account when that application is considered.
- 13.3 Members are reminded that the Code of Conduct at paragraphs 6 and 7 regulates Members conduct with regard to both formal Committee Site Visits and individual site visits.
- 13.4 Attendance at a formal Committee Site Visit is not mandatory for Members voting on the subsequent item on the Agenda, but Members are expected to attend if they feel that they could not make a decision without a site visit in any particular case or to ensure that sufficient Members attend to maintain public confidence in the need for the visit. If a Member cannot for whatever reason attend upon the formal Committee Site Visit and feel that they need to visit the application site before making their decision, they should undertake an individual site visit prior to the Committee, or abstain from the decision at the Committee.

14 **Calling for A Public Inquiry**

- 14.1 When an application is refused, and is likely to be the subject of an appeal there is sometimes pressure at a Committee from objectors and other members of the public present for a public inquiry to be held in respect of any potential appeal, as it is erroneously believed that the City Council have the power to hold such an inquiry, and that a public inquiry will be more likely to be swayed by the representations of the objectors.
- 14.2 The Planning Inspectorate determine which of the three types of appeal is the most appropriate for any particular appeal. The three types of appeal are :-
- Written representations;
 - Informal hearing;
 - Public inquiry.

An appeal will be written representations if both the appellant and the Council agree to it. These appeals are undertaken purely on the basis

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of documents submitted by the parties and are the cheapest and quickest form of appeal.

14.3 If there is no agreement as to written representations being the most appropriate form of appeal then the appeal will be either an informal hearing or a public inquiry at the sole decision of the Planning Inspectorate. Both parties may make representations regarding which is the more appropriate method of appeal, but the decision is solely that of the Planning Inspectorate.

14.4 In practical terms there is very little difference between an informal hearing and a public inquiry for an objector as both are held in public and both allow for objectors to make representations. The only real difference is that the public inquiry allows for evidence to be given under oath. All three types of appeal will deal with exactly the same material planning considerations. An appeal is as likely to be upheld on its planning merits after written representations as it would at an informal hearing or a public inquiry.

15 **Declarations of Interest**

15.1 Members should be clear about declaring an interest and when they should leave the room when the matter is discussed. Part 2 of the Code of Conduct contains specific Rules regarding this issue. If in doubt, Members should seek specialist legal advice from the Legal Contact Officer beforehand. Whilst officers will give advice, it should be noted that the decision itself rests with the Member.

16 **Observers and Public Speaking at Committee Meetings**

16.1 The current practice of allowing only one spokesperson for each principal point of view is at the Chair's discretion. There are rules regarding this issue at paragraph 5 of the Code of Conduct. Whilst the public do not have a right to speak, there will be times when additional speakers will wish to make representations. Sometimes denying a member of the public the chance to speak can create difficulties and Chairs are reminded to exercise this discretion having regard to the right to a fair hearing under Article 6.1 of the Human Rights Act 1998 and paragraph 5.2(c) of the Code of Conduct.

16.2 Members are reminded that public speaking is normally limited to a maximum of 5 minutes (as opposed to 3 minutes at Council and Cabinet meetings). Paragraph 5.2(d)-(g) of the Code of Conduct contains rules regarding this point. The Committee Secretary will keep a check of the time and inform the Chair when the 5 minutes is about to

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elapse. It would be helpful at that time if the Chair would advise the speaker to draw to a conclusion if it is not apparent that the speaker has nearly finished. A note of the public speakers and the key points made by them will be made by the Committee Secretary and retained on file with the agenda. (do they?)

- 16.3 Cabinet Members attending Committee meetings as observers should take no part in the conduct of the meetings and should only contribute when specifically invited to do so by the Committee. The procedure for Councillors wishing to address the Committee is the same as for members of the public.

17 **Role of the Chair**

- 17.1 The Chair, in running the meeting, should be mindful of the need to retain a degree of independence as far as possible, and to be fair to all Members of the Committee. It is suggested that best practice be followed by the Chair in being the last speaker on an item of business, prior to the vote being taken.

- 17.2 If there are equal numbers of votes for and against a decision, the Chair will have a second or casting vote in accordance with Clause 18.2 of part 4, Council Procedure Rules. There is no restriction on how the Chair chooses to exercise a casting vote.

- 17.3 The Chair is expected to maintain order and to allow the Committee to perform its proper functions without disruption by either Members of the Committee or by members of the public. The powers of the Chair in relation to dealing with disruption by Members of the public are set out in a separate Guidance Note to Chair On Disruption Of Planning And Highways Committee By Members Of The Public. Committee Members should not seek to condone the behaviour of members of the public in acts of disruption, and support the Chair in the proper exercise of those powers under the Council Procedure Rules.

- 17.4 Feedback from businesses and members of the public who have attended Committee meetings suggest that they can sometimes be confused as to why decisions have been made. The Chair has a role in ensuring that decisions are clearly explained, especially if against the officer recommendation in the report.

18 **After the Committee**

- 18.1 The determination by the Committee may not be the end of the planning process in respect of some applications. Where an applicant
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appeals, the process may continue for up to a year after the Committee meeting. Members should therefore be aware of outstanding appeals which are reported back on the Committee Agenda, and avoid statements and conduct which might give the indication of unreasonable conduct in the making of the decision.

- 18.2 Whilst Members would be free to join and even organise lobby groups related to a particular application after the determination of a decision (subject to paragraph 17.1 above), Members should bear in mind that a duplicate application may be made by the applicant to the application refused which will require determination in the future. It may well be that Members may be forced to declare an interest and possibly be barred from taking part in this subsequent determination, if their statements and conduct indicate that they could not approach this duplicate application with an open mind.
- 18.3 Members must bear in mind that Planning and Legal Officers are under a duty to pursue every such appeal against refusal with due diligence and rigour under their separate professional codes irrespective of their initial advice to the Committee. Committee Members should not therefore seek to influence the conduct of any subsequent appeal case by the City Council. Members should be aware that they are able to make representations at all types of appeal in their own name as an objector or supporter to the development, and attend in person at both informal hearings and public inquiries to make those representations.
- 18.4 The decision of the Inspector will be reported back to the Committee at the first available opportunity. Members should not use this report back to comment adversely upon the Inspectors decision, or upon the conduct of the appeal, or the original application as this would undermine confidence in the planning system. In the overwhelming majority of planning appeals the Inspector will reach a decision substantially similar to the original report of the Planning Officer, dismissing the appeal against the decision of the Committee based upon that report.
- 18.5 In a minority of cases the Inspector may uphold the appeal despite the Planning Officer's report and the decision of the Committee. Whilst there is a right for Inspector's decisions to be reviewed that is by an application for judicial review in the High Court based on evidence that the decision was unreasonable in planning terms or followed a misinterpretation of law or planning policy; it is not a right of appeal. Decisions to take judicial review proceedings may have considerable financial consequences for the Council and should therefore only be taken after obtaining Counsel's opinion. Although the Director of Legal
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Services has delegated powers to institute and defend legal proceedings generally, unless that is necessary to ensure that statutory timetables are met (in which case a report would be brought to the relevant Committee at the earliest opportunity) a decision to institute proceedings would be taken by the relevant Committee following a joint report by the Head of Planning and the Director of Legal Services.

- 18.6 There will also be a very small number of appeals which have been dismissed following refusal by Committee Members contrary to Planning Officers advice. There may be good reasons for the decision of the Inspector in such cases which are unrelated to the quality of the advice given in the original report, but the Head of Planning will review the case and ensure that any lessons that need to be are learnt.

Sheffield City Council - Constitution Part 5 – Guidance Note to Chairs on Disruption of Planning and Highways Committees by Members of the Public

GUIDANCE NOTE TO CHAIRS ON DISRUPTION OF PLANNING AND HIGHWAYS COMMITTEES BY MEMBERS OF THE PUBLIC

(Issue Date: August 2012)

This Guidance Note is aimed principally at Chairs of Committees, but should be noted by every Member attending at an Committee who may feel intimidated or frustrated by the interruption of the due process of the Committee. The undue interruption by members of the public acting in a disruptive fashion not only undermines the due planning process, but also delays other members of the public intending to speak to applications and issues which may affect them, causing frustration and disillusionment with the City Council and the planning process.

1. Council Procedure Rules

- 1.1 **Part 4, Rule 20** allows for the Chair to take action with regard to both individual and group disruption. It says:
“If a member of the public interrupts proceedings of a meeting the Chair shall warn him/her. If he/she continues the interruption or repeatedly interrupts, the Chair shall order his/her removal from the meeting room. In the case of meetings where there is a general disturbance in any part of the meeting room open to the public the Chair shall order that part to be cleared.”
- 1.2 Interruption through disturbance may take many forms, and would include but is not limited to verbal interruptions such as shouting and swearing at Members, Officers and other members of the public or press present; engaging in a conversation with another member of the public whilst Members or officers are speaking; overrunning any allotted time to speak to the application or issue or the singing of songs.
- 1.3 Sometimes an interruption may take the form of an allegation of misconduct, corruption or discrimination against Members or Officers which may or not be related to an item on the Agenda. It is not within the remit of the Committee to consider such allegations, or to order an investigation of such allegations, and any such allegation raised must therefore be considered to be a disturbance of the meeting of the Committee. In such circumstances the Chair should first notify the member of the public that such allegations are not within the remit of the Committee, and that any such allegations, including any supporting evidence should be made to the proper body given the nature of the allegation. If the member of the public refuses to accept this then the formal warning at paragraph 2.1 should be read out. Interruption through disturbance may also include physical interruptions and would

include physical violence directed at a Member or an Officer, or a member of the public or the press present. It would also include non-violent conduct which may be deemed to be intimidatory such as approaching or sitting next to a Member or Officer in the course of a Committee and staring at them. It would also include more formalised demonstrations such as large groups of members of the public brandishing placards, or refusing to sit until their matter had been dealt with, or handing out late material to Members. Finally gestures and expressions may also fall within the ambit of physical disturbance.

- 1.4 Interruptions caused by mobile phones and other such equipment including the use of television camera and recording equipment will also fall within Rule 20 should they result in a disruption of the Committee. Note that in the absence of disruption the use of such devices will still be subject to the Chair's discretion under Rule 21.
- 1.5 It should be noted that the power granted to the Chair by Rule 20 is restricted only to the meeting room of the Committee and does not include any other part of the Town Hall. Persons seeking to disrupt the Committee meeting from outside the meeting room cannot therefore be removed from the building under this Rule. In all such cases it will be necessary to contact the Town Hall Security Services and obtain proper authorisation for any such persons' removal from the building. Where any disruption is due to criminal acts the South Yorkshire Police will need to be called.

2. **Warnings**

- 2.1 In the event of a disturbance the Chair should identify the person or person causing the disturbance and if warranted read out the following formal warning:
 "Due to the disturbance caused by you to the conduct of the meeting of the Committee, you are hereby issued with a warning in accordance with Rule 20 of Part 4 of Sheffield City Council's Council Procedure Rules. Under this Rule should you create any further disturbance to the conduct of the Committee meeting I may order your removal from the meeting room."
- 2.2 The Chair should ensure that the formal warning, and if possible the identity of the person or persons to whom the warning has been issued, is formally recorded by the Democratic Services Officer as part of the formal record of the Committee meeting.
- 2.3 Instead of a formal warning the Chair may use his discretion to issue an informal warning if the disturbance is in the Chair's opinion not serious, or is unintended to disrupt the Committee Meeting, i.e. two members of the public in a conversation. In such circumstances the Chair should ask the persons causing the disruption to please cease immediately the conduct causing the disruption, and remind them that this is a public meeting and that if they have private matters to discuss

could they please do so outside. In this instance no record of the identity and warning should be made by the officer from Democratic Services.

3. **Removal From The Meeting**

3.1 After the issue of a formal warning under Rule 20 if the conduct is repeated by the same person or persons the Chair should read out the following statement:-

“Following the issue of a formal warning to you under Rule 20 I hereby order your removal from the meeting room for the duration of this Committee meeting in accordance with that Rule.”

3.2 The Democratic Services Officer should where this is possible, formally take a note of the identity of the person or persons whose removal has been ordered in accordance with Rule 20.

3.3 If the person or persons who have been ordered to be removed from the Committee meeting refuse to leave the meeting room, they may be physically ejected from the meeting room as a trespasser provided reasonable force is used by the Town Hall Security Staff. They should be notified in the following terms:-

“You can remain outside the meeting room but should you seek to further disrupt the conduct of proceedings of the Committee, then the Town Hall Security Staff will be informed of the situation which may lead to your removal from the premises and/or the South Yorkshire Police being called.”

Guidance for Members on Declaration of Interests

Additional section on Dispensation:-

Dispensation

In certain circumstances the Council may grant a dispensation to permit a member to take part in the business of the authority even if the member has a disclosable pecuniary interest relating to that business.

A dispensation will be able to be granted in the following circumstances –

1. That so many members of the decision-making body have DPs in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result;
2. That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter. This assumes that members are predetermined to vote on party lines on the matter, in which case, it would be inappropriate to grant a dispensation to enable them to participate;
3. That the authority considers that the dispensation is in the interests of persons living in the authority’s area;
4. That, without a dispensation, no member of the Cabinet would be able to participate on this matter (so, the assumption is that, where the Cabinet would be inquorate as a result, the matter can then be dealt with by an individual Cabinet Member. It will be necessary to make provision in the scheme of delegations from the Leader to cover this, admittedly unlikely, eventuality); or
5. That the authority considers that it is otherwise appropriate to grant a dispensation.

Any grant of a dispensation must specify how long it lasts for, up to a maximum of 4 years.

To obtain a dispensation, an elected member must write to the Monitoring Officer explaining why a dispensation is sought and desirable, and specifying the period of time for which it is sought. The Monitoring Officer may consult with the Independent Person or the Council’s Standards Committee in relation to a request for dispensation.

The Monitoring Officer will record the decision in writing and keep it with the Council’s Register of Interests, available for public inspection.

MANAGEMENT STRUCTURE

1.1 Chief Officers

Chief Executive and Head of Paid Service

- Has overall corporate and management responsibility for the work of the Council, including the number and grade of officers required for the discharge of functions
- May discharge the functions discharged to other officers in cases of urgency or emergency and in consultation with the Leader

Deputy Chief Executive

Responsible for:-

- Performance and Communications
- Scrutiny and Corporate Planning
- Health Improvement and Health Inequalities
- Support to SFP Health Partnership
- Healthy City Project
- Sheffield City Region
- Strategy for Economy, Skills and Enterprise
- Economic Investment Planning
- Policy and Research
- Voluntary Sector Strategy and Funding
- City Information
- Spatial Information applications including GIS
- Democratic Services and Member Development
- Organisational Change, Customer Strategy
- Governance & Involvement, including Elections
- Emergency Planning / Business Continuity
- Legal Services including Land Charges
- Register Office

Executive Director Resources

Responsible for:-

- Finance, including Revenues and Benefits through Capita contract
- Commercial Services, including Corporate Procurement and Strategic Contract Management
- Property Services and Facilities Management, including Kier Partnership
- Customer Services, including Corporate Contact Centre and First Point and Complaints
- Transport Services

	plans showing proposed prescribed improvement or building lines.	
Registration of the People Act 1983	Description	Proper Officer
Section 8	Officer to act as Registration Officer for the registration of Parliamentary and Local Government Electors.	Elections Officer
Section 28	Officer to act as Acting Returning Officer at Parliamentary Elections.	Chief Executive
Section 35	Officer appointed as Returning Officer for local elections.	Deputy Chief Executive
Section 67	Officer to whom declarations and public notice of election agents' appointments are made.	Elections Officer
Section 131	Officer responsible for providing accommodation for holding election court.	Elections Officer
Buildings Act 1984	Description	Proper Officer
Section 78 (8)	Officer responsible for taking immediate action in relation to dangerous buildings.	Director of Development Services
Local Government Finance Act 1988	Description	Proper Officer

Section 114	Officer responsible for making financial reports to the authority.	Executive Director, Resources.
Section 116	Officer responsible for notifying auditor of date, time and place of meeting to consider Section 114 report and of decision of such meeting.	Executive Director, Resources.
Local Government & Housing Act 1989	Description	Proper Officer
Section 2 (4)	Officer with whom the list of politically restricted posts shall be deposited.	Chief Executive.
Section 4	Officer designated as Head of Paid Service.	Chief Executive.
Section 5	Officer Designated as Monitoring Officer.	Deputy Chief Executive <u>Director of Legal Services.</u>
Local Government (Committees & Political Groups) Regulations 1990	Description	Proper Officer
Section 8 (1) & (5)	Officer to whom notice is delivered about the constitution of a political group, or the change of name of a political group.	Joint Head of Democratic Services.
Section 9 and 10	Officer to whom notice is delivered about a Councillor's	Joint Head of Democratic Services.